



Appeal Decision

Site visit made on 28 February 2023

by John Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 March 2023

Appeal Ref: APP/B1930/W/22/3300239

82 Oaklands Lane, Smallford, St. Albans AL4 0HS

- 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 Troy Homes Ltd against the decision of St. Albans City Council.
 - The application Ref 5/21/3502, dated 4 January 2022, was refused by notice dated 28 April 2022.
 - The development proposed is described on the application form as 'Full planning application for the demolition of 1 no. existing dwelling and garage, and the erection of 5no. dwellings and all associated works'.
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Decision

1. The appeal is allowed and planning permission is granted for Full planning application for the demolition of 1 no. existing dwelling and garage, and the erection of 5no. dwellings and all associated works at 82 Oaklands Lane, Smallford, St. Albans AL4 0HS in accordance with the terms of the application, Ref 5/21/3502, dated 4 January 2022, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the appeal site and surrounding area; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Inappropriate development

3. The National Planning Policy Framework (the Framework) seeks to prevent inappropriate development in the Green Belt except in very special circumstances. Paragraph 149 of the Framework sets that new buildings within the GB will be regarded as inappropriate unless, amongst other specific exceptions, it represents limited infilling in villages. The appellant asserts that

the scheme constitutes limited infilling in villages in accordance with part (e) of Paragraph 149.

4. Policy 1 of the City and District of St Albans District Local Plan Review (Adopted 30 November 1994) (LP) indicates that within the Green Belt, except for development referred to in Policy 2, or in very special circumstances, permission will not be given for purposes other than mineral extraction, agriculture, small scale sport facilities, other uses appropriate to a rural area, and the conversion of buildings. While the overall aims of the policy are consistent with the Framework, it does not specifically address the exceptions provided therein. Therefore, I give it only limited weight.
5. The Framework does not define what constitutes a village and the submitted evidence reveals that Smallford does not have any defined boundaries on the Local Plan Proposals Map. Moreover, the LP does not define what constitutes limited infilling. However, case law has determined that whether or not a proposed development constitutes limited infilling in a village, for the purpose of the Framework, is a question of planning judgment for the inspector, and that this would depend upon their assessment of the position on the ground. I have approached this appeal with that in mind.
6. On my site visit, I noted the dwellings addressed in Oaklands Lane and recent developments at Pasture View and Lawrence Close. I also saw the 3 dwellings fronting Oaklands Lane to the west of the appeal site and the pair of semi-detached properties that had been recently erected immediately to the north. In combination these properties contribute to the creation of an identifiable settlement, with Oaklands Lane forming a distinct boundary on the south western side of the village. The appeal site falls within the envelope created by these properties, and consequently it lies squarely within the confines of the village.
7. The Framework does not define what limited infilling is. It could be defined as small-scale development which fills a gap in an otherwise built-up area. In the absence of a more compelling definition, I shall consider the proposal accordingly. The proposal would result in the erection of 5 dwellings (a net increase of 4 dwellings) on a relatively small site surrounded by existing dwellings. Moreover, it would result in frontage development being provided onto Oaklands Lane between two existing properties. Taking these factors into consideration, together with the appeal decisions¹ referred to me by the appellant, I consider the proposal would constitute 'limited' infilling.
8. In light of the above, the proposal constitutes limited infilling in villages in accordance with part (e) of Paragraph 149. Accordingly, I conclude on this main issue that the proposed development is not inappropriate development in the Green Belt. As far as it is relevant, the proposal would also accord with Policy 1 of the LP which seeks, amongst other matters, to prevent inappropriate development in the Green Belt.

Openness

9. Impact on openness is implicitly taken into account in the exceptions unless there is a specific requirement to consider the actual effect on openness. Openness is not expressly stated, in part (e) of Paragraph 149, as a

¹ APP/P1940/W/17/3183388 and APP/P1940/W/17/3187494

determinative factor in gauging inappropriateness. Consequently, there is no requirement to assess the impact of the development on the openness of the Green Belt.

Character and appearance

10. The Council asserts that the proposed development would result in an overdevelopment of the site, which would have a negative effect on the surrounding area.
11. The village of Smallford contains a range of house designs, building separations, plots sizes and densities creating a varied character to the area. Whilst the proposal would result in individual plots that are smaller than the existing bungalow that occupies the site, it would nonetheless be comparable with nearby developments, including those erected in Pasture View. Moreover, the dwellings would be set back from highway by a similar distance to the adjacent semi-detached properties and would not adversely affect the street scene.
12. The gaps between the proposed buildings would be small, however they would be comparable in size to other developments in the locality. Furthermore, whilst opportunities for substantive landscaping to the front of the properties would be limited, there would be adequate space for some planting, as shown on the submitted landscaping scheme, which would soften the appearance of the buildings and their associated parking spaces.
13. The proposed dwellings would be consistent in scale with other houses in the locality and would incorporate design elements found on nearby properties. Subject to an appropriately worded condition the materials used in the construction of the dwellings would ensure that the development was in keeping with the street scene.
14. The appellants refer to the grant of planning permission on the site for 4 dwellings² following the refusal of the appeal proposal. However, whilst this indicates an acceptance by the Council of an increased number of dwellings on the site, in the absence of detail drawings I am unable to make any comparisons between it and the appeal scheme.
15. I conclude, on this main issue, that the proposed development would not adversely affect the character and appearance of the appeal site and surrounding area. As far as it is relevant, the proposal would also accord with policy 69 of the LP which seeks, amongst other matters, to deliver high quality development.

Very special circumstances

16. I have found that the proposal would constitute limited infill within a village and would therefore not be inappropriate development within the Green Belt. Accordingly, there is no need to examine if very special circumstances exist to outweigh any harm arising from inappropriateness.

² Planning application reference 5/22/1574

Other Matters

17. I have taken into account the representations made by local residents and the Civic Society. I will comment specifically on those matters that I have not already addressed elsewhere in this decision.
18. Parking provision is indicated on the submitted drawings within the curtilage of each dwelling. The Council, in consultation with the highway authority, are satisfied that adequate provision is made for the parking of vehicles clear of the highway. From what I have seen and read I have no reason to disagree with their conclusions.
19. Reference has been made to the refusal of permission for development at East Lodge. This was a proposal considered at appeal³ and dismissed. That said, the locational circumstances relating to that proposal were different to the appeal proposal. Consequently, I give this matter limited weight.
20. I accept that existing developments should not form a precedent for other developments, which should be considered on their own merits. Nonetheless, I am required to consider the context within which the development is being proposed, and in this regard recent developments do have a bearing on the character and appearance of the area.
21. I accept that an increase in the number of dwellings is likely to result in more people residing on the site, with a corresponding level of activity. However, I have no compelling evidence before me to indicate that this would result in a significant increase in noise that would adversely affect neighbouring occupiers.
22. I recognise that some Council's limit the size of extensions that can be carried out to properties within the Green Belt. That said, the proposal is not for an extension to an existing house. Consequently, this is not a matter before me.
23. The Civic Society has made reference to the removal of trees and vegetation. From the evidence before me, and what I saw on my site visit, I consider that the existing trees are of low quality with limited amenity value and ecological benefit. Moreover, the proposed landscaping scheme would provide some compensation for the loss of vegetation. Consequently, I give this matter limited weight.
24. The motives of the appellant are not a planning matter, and consequently I give this matter neutral weight in my consideration.
25. Policy 72, which is stated in the reason for refusal, is not relevant to this case as it relates to residential extensions.

Conditions

26. The Council has suggested a number of planning conditions that I have considered against the advice in Planning Practice Guidance. In some instances, this has resulted in a rewording of the conditions.
27. In addition to the standard 3 year time limitation for commencement [1], I have imposed a condition requiring the development to be carried out in accordance with the approved plans [2].

³ APP/B1930/W/20/3261865

28. In the absence of full details of the existing ground levels and proposed slab levels a condition is necessary in the interest of precision and to ensure an acceptable relationship with adjoining properties [3]. However, I have added a requirement for the development to be completed in accordance with the approved details.
29. A condition is necessary to ensure that adequate protection of human health is provided, and groundwater is protected from possible contamination [4]. I have reworded this condition, combining elements from the conditions suggested by the Council.
30. A condition is necessary to secure details of the external materials of the proposed dwellings thereby ensuring that the proposed development is in keeping with the character and appearance of the area [5].
31. A detailed landscaping scheme has been submitted by a landscape architect and arboriculturist, therefore a condition requiring approval of further details is not justified. However, a condition requiring the implementation of the approved scheme and its future maintenance will be required [6].
32. A condition requiring the provision of boundary fences is necessary to ensure the privacy of future occupiers [7].
33. Windows serving bathrooms and en suites are shown to be obscure glazed on the submitted drawings and therefore a condition requiring this provision is not necessary. Furthermore, I consider the use of obscure glazing is not necessary or reasonable in the bedroom or study windows in the rear elevation first floor windows, given the relationship between the existing and proposed buildings, and the high level locations of some of the windows proposed. However, a condition requiring the provision of obscure glazing in certain first floor bedroom windows located in side elevations is necessary to protect the privacy of neighbouring residents [8].
34. I have not included the Council's suggested condition to remove specified classes of permitted development allowances; notwithstanding the site's Green Belt location, a general precautionary condition would be contrary to Planning Practice Guidance.
35. A condition requiring the provision and retention of the proposed parking and is necessary in the interests of highway safety [9].
36. A condition requiring compliance with the Preliminary Ecology Assessment is necessary to ensure that the proposed development contributes towards the enhancement of biodiversity [10].

Conclusion

37. There are no relevant considerations, of sufficient weight, to indicate the application should be determined other than in accordance with the development plan when considered as a whole. For the reasons given above, I therefore conclude that the appeal should be allowed subject to the conditions set out below.

John Gunn

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: A.56119; P101A; P102; P110C; P111A; P112A; and 21/072-01.
3. The development hereby permitted shall not be commenced until drawings showing existing levels and proposed slab levels have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.
5. Prior to the commencement of above ground construction works, samples of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be approved in writing by the Local Planning Authority. Sample materials should be made available on site when discharging this condition. Development shall be carried out in accordance with the approved details.
6. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
7. Prior to the bringing into use of any part of the development hereby approved, 1.8m high close boarded fences shall be erected along the boundaries between the proposed dwellings.
8. The first floor windows in the side elevations of Plot 1 and 2 serving bedrooms 2 shall be glazed in obscure glass and shall be non-opening below a height of 1.7

metres taken from internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

9. The development shall not be occupied until the car parking and turning areas shown on the approved plans have been constructed, surfaced and permanently marked out. The car parking and turning areas so provided shall be maintained as a permanent ancillary to the development and shall be used for no other purpose at any time.

10. The development hereby permitted shall be carried out in accordance with Section 8 of the Preliminary Ecology Assessment dated December 2021 and shall be implemented prior to occupation of the development.

END OF SCHEDULE