



Appeal Decision

Site visit made on 7 March 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st April 2023

Appeal Ref: APP/J1915/W/22/3301344

Land at Old Station Yard, Millers View, Much Hadham SG10 6BN

- 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 Goodey of Browndog Developments Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2237/FUL, dated 18 August 2021, was refused by notice dated 21 January 2022.
 - The development proposed is erection of four dwellings, to include one affordable unit, with associated access road and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the Council's decision, the Much Hadham Neighbourhood Plan successfully passed referendum on 23 June 2022 and was made by the Council on 16 November 2022. The Neighbourhood Plan therefore forms a part of the development plan at the time of my decision.
3. The Council has raised additional concerns regarding the proposal's effects in relation to housing mix, citing policies contained within the Neighbourhood Plan. Such matters were not identified in the reasons for refusal which pre-dates the Neighbourhood Plan referendum, and therefore I consider there to be additional main issues not specified in the Council's decision. The appellant has submitted evidence in their statements in respect of the provisions of the Neighbourhood Plan, and therefore I am satisfied no party would be prejudiced by my consideration of such matters.
4. The appellant has brought to my attention to three linked appeal cases relating to 1 Whempstead Road, Benington, also within the East Hertfordshire District Council area. The appeal decisions indicate that the Council cannot demonstrate a five-year supply of available housing land, which the Inspector describing the supply as a moderate shortfall against the district's housing need¹. The Council were invited to comment and confirmed it accepts the land supply position identified by the Inspector.

Main Issues

5. The main issues in this appeal are:

¹ Appeal references: APP/J1915/W/22/3303408, APP/J1915/W/22/3303413 & APP/J1915/W/21/3288702.

- Whether the proposed development would be in a suitable location for housing, having regard to the local development strategy for the area;
- Whether the proposal would provide an appropriate mix of housing; and
- The effects of the proposal on the character and appearance of the area.

Reasons

Suitability of location

6. The appeal site is an undeveloped plot of land which abuts the built area of the village of Much Hadham. The proposed dwellings would be located at the end of a private road between a recently constructed housing development and an existing pair of semi-detached cottages and would therefore adjoin an area which is principally residential in character.
7. The site would benefit from pedestrian access to services and facilities within the village. The Council's delegated report for the adjacent development at Windmill Way considered that site would be well located in relation to village services, a position which would apply equally to the appeal site.
8. Much Hadham is identified as a 'Group 1 Village' by policy VILL1 of the East Herts District Plan 2018 (DP). The DP describes Group 1 villages as the most sustainable villages within the district. However, whilst adjacent to the village's built edge, the appeal site lies outside the village development boundary, which was recently revised by Neighbourhood Plan (NP) Policy MH H2, and is located within the 'Rural Area beyond the Green Belt' as defined by DP Policy GBR2.
9. Policy GBR2 restricts development for the purpose of maintaining the open and largely undeveloped character of the countryside, with development generally limited to types which require a countryside location. Likewise, Policy MH H2 regards development outside the boundary as generally inappropriate, permitting development only where supported by the DP or where brought forward by a Neighbourhood Development Order or Community Right to Build Order. The appeal proposal does not fall within any of the exceptions identified by the policies, and development of the site would result in a loss of undeveloped land.
10. The scheme would include provision of one affordable dwelling. Whilst the proposal would satisfy some criteria of DP Policy HOU4, the proposal would not constitute a rural exception site as described by the policy.
11. Having regard to the local development strategy for the area, the appeal site would not be in a suitable location for housing development. The site's location would not accord with DP Policy DPS2, which directs growth to more sustainable locations, with limited development in villages; VILL1, which supports growth within the development boundary of Much Hadham; and GBR2 and NP Policy MH H2 which together generally limit development within the Rural Area.
12. I note that the adjacent Millers View development also represented a departure from the Rural Area policies when it was granted planning permission in 2016. However, the Council's delegated report provides clear reasoning for supporting the development namely that, in the absence of a five-year supply of housing land, the National Planning Policy Framework's (the Framework) presumption in

favour of sustainable development indicated that the adverse impacts of the scheme were outweighed by the benefits and planning permission should be granted.

Housing Mix

13. The proposal would provide three 4-bedroom units and one 3-bedroom unit. NP Policy MH H3 states that, to meet the needs of younger people and downsizers, preference will be given to schemes comprised entirely of 1, 2 and/or 3-bedroom homes. The proposal has provided no evidence to demonstrate a local need for larger dwellings, as required by Policy MH H3.
14. The proposal would provide three market dwellings and one affordable unit. The NP indicates that at 2019, 15 persons were seeking accommodation in the village and Policy MH H3 favours schemes which address affordability. Therefore, the provision of one affordable unit would form a benefit of the scheme.
15. However, the scale of the proposal would fall below the development plan's threshold for on-site provision of affordable housing. In addition, paragraph 64 of the Framework states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in 'designated rural areas'.
16. The appellant has prepared a planning obligation to secure the benefits of affordable housing, which I note was revised during the appeal to address certain issues raised by the Council. However, paragraph 57 of the Framework is clear that planning obligations must only be sought where necessary to make the development acceptable in planning terms. Since the provision of affordable units is not required by the development plan on sites of the proposed scale, such a planning obligation would not be necessary and therefore would not comply with the Framework's tests.
17. Furthermore, the appellant has provided no evidence that an affordable housing provider would be willing to take on a single unit nor explained the course of action in the event a provider is not found. Neither has the appellant addressed the Council's concerns whether the proposed affordable unit would continue to be secured if a subsequent planning application were submitted for the site. For these reasons, and in the absence of a suitable mechanism to secure the affordable housing unit through the planning system, there is insufficient certainty that the affordable housing unit will be provided and would be retained within an affordable tenure in perpetuity.
18. I must therefore conclude in the absence of evidence to demonstrate a need for larger dwellings, and in the absence of a suitable mechanism to secure the affordable unit in perpetuity, the proposal does not comply with Policy MH H3.

Character and appearance

19. The appeal site is a broadly rectangular parcel of land within an area of woodland. The front of the site is an area of scrub with relatively sparse tree cover. Beyond the rear site boundary is an extensive area of woodland with dense tree cover. This woodland buffer at the rear, along with proposed planting and retention of existing trees along the side boundaries, will generally screen views of the site within its landscape setting.

20. As demonstrated through the appellants Landscape and Visual Impact Assessment, the proposal would have a negligible visual impact, with some changes visible, but which would not be readily discernible due to the distance of views and screening provided by vegetation. Notably, from the public right of way to the rear of dwellings at Windmill Way, views of the proposed development would generally be screened by vegetation or would be obscured by Mill Cottages.
21. I note that the site has previously been subject to a number of proposals, and the appellant has designed the current scheme to address issues raised by those previous decisions. Notably, the previous proposal was a larger scheme of eight dwellings, oriented perpendicular to Mill Cottages and which extended significantly further to the rear of the site, in effect providing a continuation of the Millers View development. The appeal site has been significantly reduced in size from previous proposals, with the rear boundary running parallel with the rear plot boundaries of Mill Cottages. The proposed dwellings would be reduced in number and oriented parallel with Mill Cottages and perpendicular to dwellings at Millers View. The current proposal would therefore have a significantly lesser visual impact than the previous scheme. The proposed development would appear to round off the Millers View development and would not appear as an unacceptable erosion of the countryside.
22. The proposal would not therefore adversely impact the character and appearance of the area. The proposal would comply with DP Policies DES2, DES3, DES4 which together require proposals to conserve the character and distinctive features of the district's landscape and local distinctiveness.

Planning Balance and Conclusions

23. As the Council cannot currently demonstrate a five-year housing land supply and this is an application for the provision of housing, the development policies which are most important for determining the application are considered to be out-of-date in accordance with paragraph 11 d) of the Framework. I am therefore required to consider, as set out in Framework paragraph 11 d) ii, if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. It is also necessary to consider the effects of paragraph 14 of the Framework which states that, in situations where the presumption applies and where certain criteria are met, the adverse impact of allowing development that conflicts with a neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.
25. The NP was made on 16 November 2022 and is therefore less than two years old. The NP contains policies and allocations to meet and exceed its identified housing requirement; NP Policy MH H1 provides a strategy for housing supply through development of existing committed sites, site allocations identified by policies MH H4 to H6, and windfall sites within the village boundary defined by Policy MH H2. In addition, the Council has a housing land supply exceeding 3 years and housing delivery over the previous three years exceeded 45%, assessed against the Housing Delivery Test. Consequently, the criteria are met, and the provisions of paragraph 14 apply.

26. The Government's objective is to significantly boost the supply of housing. The proposal would contribute to the overall supply of housing through provision of four dwellings, with associated benefits to the local economy, to which I attach moderate weight. One proposed dwelling would be an affordable housing unit. As discussed above, the NP favours schemes which address affordability to address a demonstrable need for affordable housing in the village. However, in the absence of a suitable mechanism to secure the affordable unit in perpetuity, I attach only modest weight to the benefits associated with the affordable unit.
27. The appellant sets out reasons why they consider their site to be more suitable than sites identified in the Neighbourhood Plan. However, whilst some site allocations may experience constraints, I have no substantive reason to indicate that the Neighbourhood Plan's strategy for housing is not suitable and deliverable over the plan period. Irrespective of such reasons, the appeal site is not allocated by the Neighbourhood Plan.
28. Whilst I have found no harm in respect of the proposal's effects on the character and appearance of the area, the adverse impacts arise from the site's location outside the development boundary and an inappropriate housing mix from a development comprising of larger dwellings not substantiated by evidence of local need. In addition to the harms identified above, a consequence of failure to adhere to the NP's policies would be harm to the perceived effectiveness of the neighbourhood planning process. Having regard to the provisions of paragraph 14, I consider that these matters attract significant weight and significantly and demonstrably outweigh the benefits.
29. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. I therefore conclude that the appeal should be dismissed.

E Dade

INSPECTOR