



Appeal Decision

Site visit made on 5 July 2023

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2023

Appeal Ref: APP/J1915/W/22/3313458

Borley Green Barn, Conduit Lane, Brent Pelham SG9 0AJ

- 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 M Benjamin against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/2871/FUL, dated 8 November 2021, was refused by notice dated 15 November 2022.
 - The development proposed is described as erection of new build residential unit.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) whether the appeal site is a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities; and
 - ii) the effect of the development proposed on the character and appearance of the area.

Reasons

Location and accessibility

3. Policy DPS2 of the East Hertfordshire District Plan 2018 (District Plan) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy.
4. Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The amount of development directed to each village flows from the group it is put in, with Group 1 villages likely to see more growth than Group 2 and 3 villages.
5. The appeal site lies within a Rural Area beyond the Green Belt, outside of any recognised settlement boundary as set out in the District Plan. Therefore, the appeal site is part of the countryside. The nearest settlement listed within the policy is Brent Pelham, approximately 1km away, which has limited services.
6. Under Policy VILL3 of the District Plan, Brent Pelham is classed as a Group 3 Village. Group 3 Villages are identified in Policy VILL3 as the least sustainable

locations for development in the district. This policy permits limited infill development in Group 3 villages if identified in an adopted Neighbourhood Plan (NP). I have not been directed to any adopted NP and therefore the proposal does not glean support from Policy VILL3.

7. As the appeal site is located in the Rural Area Beyond the Green Belt (the 'Rural Area') and therefore Policy GBR2 is relevant. It lists several types of development that will be permitted in the Rural Area in addition to that set out in the VILL policies, provided they are compatible with the character and appearance of the area. The types of development permitted by Policy GBR2 include limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations.
8. The appeal site would be separated from the adjacent dwelling and outbuildings at Borley Green Barn by a paddock. Given this intervening space, and open fields beyond, the proposed dwelling would not be located within a group of existing properties and would not constitute infill development.
9. The appellant states that the appeal site has been close mown grass that has been used by the occupiers of Borley Green Barn for over 15 years as formal garden and constitutes previously developed land. Having regard to the National Planning Policy Framework (the Framework) definition of previously developed land, I have little evidence to substantiate that the appeal site comprises such.
10. I therefore do not concur that the proposed development comprises a form of development set out as acceptable in Policy GBR2 of the District Plan.
11. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. Paragraph 103 of the Framework acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
12. From the evidence before me access to the settlements and their services is limited. Conduit Lane, which links the appeal site to Brent Pelham, is an unlit, road with no pavement and is subject to the national speed limit. Whilst I note the health benefits and lower carbon emissions derived from sustainable travel, given the distances involved, the limitations of the immediate rural roads and limited public transport, the future occupants of the proposed dwelling would be unlikely to walk or cycle and would be reliant upon private vehicle use to meet their basic day-to-day needs. In these circumstances the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities, even when accepting that the site is in a rural location.
13. The appellant refers to a number of appeal decisions¹ stating that these provide support to the appropriate location of the site. It is acknowledged that great weight should be applied to a Decision granted by the Secretary of State or an Inspector, and the Planning Practice Guidance which refers to the importance of determining similar cases in a similar manner. I am not party to the evidence before the Inspector, however, based on the limited information before me, I do not consider the cases to be directly comparable to the appeal

¹ APP/J1915/W/16/3147738, APP/J1915/W/18/3205669 and APP/J1915/W/20/3258799

before me as the description of development, site location and context differ. In any event, I have determined this case on its own merits.

14. For the reasons outlined above, I conclude that the appeal site is not in a suitable location for residential development having regard to development plan policy and the accessibility of services and facilities. As a result, the development would conflict with policies DPS2, GBR2, VILL3 and TRA1 of the District Plan. Collectively, these policies seek to direct development to be located in places that enable sustainable journeys to be made to key services and facilities. It would also conflict with the Framework which seeks to promote sustainable development and protect the open countryside.

Character and appearance

15. The construction of a dwelling on the site would encroach into a field. The dwelling would be set back from the highway and screened in part by the substantial boundary hedge, however, the removal of sections of hedging to provide vehicular access would reduce the attractiveness of the continuous boundary hedge within the landscape.
16. The curtilage to the proposed dwelling would be large and disproportionate to the size of the dwelling. The domestication of the plot, including the proposed garage, would give rise to a suburban appearance, contrary to the character and appearance of the site and open countryside.
17. Dwellings within surrounding areas vary in scale and design. The scale, design and mass of the proposed dwelling would be reflective of the nearby dwelling and outbuildings at Borley Green Barn. Whilst a suitable external finish and landscaping could be conditioned, the very presence of development would have a negative impact on intrinsic character and beauty of the countryside.
18. Even if I were to consider the proposal as previously developed land, in addition to concluding that the site would not be in a suitable location for housing, the proposed development would erode the contribution the appeal site makes to the rural character and appearance of the area contrary to the District Plan policy.
19. For these reasons, I conclude that the proposed development would harm the character and appearance of the area in conflict with Policies GBR2 and DES4 of the District Plan. Collectively, these seek control to be exerted over development within the Rural Area beyond the Green Belt to safeguard the highly valued countryside and its open and largely undeveloped nature and to respect the character of the site and the surrounding area. The development would also conflict with the Framework which requires development to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.

Other Matters

20. I appreciate that the appellant wishes to construct the dwelling so that family can continue to reside in the locality and to provide support for any future needs they may have. However, I have not been provided with any evidence that the personal circumstances of the appellant would be enough to outweigh the harm associated with the location of the development and the character and appearance of the area.

21. I note the environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures and biodiversity improvements. However, these factors carry no more than limited weight in favour of the development. There would be moderate, social and economic benefits associated with the proposal relating to construction employment, spend within the local economy once the dwelling is occupied and the personal well-being benefits of residing in a countryside location. The dwelling would also contribute towards housing provision, noting that the Framework is supportive of small and medium sized sites, which can make an important contribution to meeting the housing requirement of an area, and are often built out relatively quickly. However, given the small scale of the proposed development the weight afforded to these benefits is limited.
22. The availability of superfast broadband to support the potential for homeworking and home delivery services are noted. As is the absence of objections from statutory consultees or neighbouring properties. However, these are neutral factors in the determination of the appeal.

Conclusion

23. For the reasons given above, having had regard to the development plan and Framework as a whole, the appeal is dismissed.

R Gee

INSPECTOR