



Appeal Decision

Site visit made on 21 June 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 September 2023

Appeal Ref: APP/N1920/W/22/3313782

3 London Road, Shenley, Hertfordshire WD7 9EW

- 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 Ms Bakija of VSB Shenley Limited against the decision of Hertsmere Borough Council.
- The application Ref 22/1385/FUL, dated 9 August 2022, was refused by notice dated 18 October 2022.
- The development proposed is the demolition of the existing outbuilding and the erection of a dwelling and associated parking and landscaping.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development 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 openness of the Green Belt;
 - the effect of the proposed development on the character and appearance of the area, with particular regard to the Shenley Conservation Area (the SCA); and
 - if the proposed development is inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

3. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to several exceptions as set out in paragraph 149. One such exception is 'limited infilling in villages'. This is supported by one of the overarching objectives for the Borough set out in

policies SP1 and CS13 of the Core Strategy¹ which seek to avoid inappropriate development in the Green Belt and promote the assessment of development proposals against the Framework. Policy CS13 also stipulates that limited infilling within village envelopes in the Green Belt will be considered appropriate, provided it is sympathetic to the character and appearance of the village and complies with other relevant policies in the development plan.

4. The Framework does not define the term, as a whole or in parts, of 'limited infilling in a village', nor does it restrict such development to a defined settlement boundary or, in this case, a village envelope. However, there is no dispute between the main parties that the settlement of Shenley is a village given the range of facilities and services present. Furthermore, it has a defined village envelope, as shown on the Policies Map, which is supported by Policy CS13 of the Core Strategy and Policy SADM23 of the SADMPP².
5. Notwithstanding the above, as established by the Court of Appeal³ (the Wood decision), whilst a village boundary defined in the development plan would be a relevant consideration, it would not necessarily be determinative in concluding whether a site is located within a village. In such circumstances, an assessment of whether the appeal scheme meets this exception is a matter of planning judgement, having regard to the situation 'on the ground'. As Policy SADM23 specifically relates to the purpose of considering applications related to limited infilling, this policy pre-empts the planning judgement of the decision maker. Even though the SADMPP was adopted after the Wood decision, I have no substantive information before me confirming if consideration was given to the Wood decision during the SADMPP adoption process. As such, Policy SADM23 is inconsistent with the Framework.
6. The appeal site comprises the semi-detached property and garden area associated with 3 London Road (No 3) and forms part of a row of three semi-detached pairs of two-storey houses. Beyond this row are further semi-detached and detached properties, all set back from the highway with frontage landscape features and verges that contribute to the semi-rural character of the area. However, combined with the village entrance and 30mph speed limit signs and the pavement alongside, the row of houses clearly defines the change from open countryside into a built-up area on this side of London Road.
7. Although limited breaks in development are present further along London Road, towards the village centre, affording views towards the open countryside, the roadside verge and pavement arrangement continue as a consistent feature in the street scene. This was recognised in the Shenley Conservation Area Appraisal 2012 (the SCA Appraisal) which extended the SCA along London Road given its attractive, transitional approach from the countryside into the village, taking in buildings of traditional forms and scale, and which are part of the village rather than detached from it.
8. Overall, having regard to the situation on the ground, it is my planning judgement that the village, on this side of London Road, begins at 1 London Road. Irrespective of the different character and density of the existing development in the immediate surroundings to other parts of the village and

¹ Hertsmere Local Plan Development Plan Document Core Strategy

² Hertsmere Local Plan Site Allocations and Development Management Policies Plan

³ *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195

the distance of the appeal site to the village envelope, for the purposes of the Framework, the appeal site is located within the village of Shenley.

9. Turning to the terms of 'limited' and 'infilling', my attention has been drawn to another Court of Appeal decision⁴ which concluded that their meaning will again be a matter of planning judgement, taking into account a range of factors. Such factors include but are not limited to, the nature and size of the proposed development, the location of the site and its relationship to other existing development.
10. Whilst not surrounded by residential development, the appeal site is bounded on two sides by dwellings and would infill a gap between these properties, as identified by the Council in its Officer Report. The linear alignment of the highway and rear boundaries of the row of semi-detached houses to the open countryside creates a ribbon development. Although the proposed dwelling would be located in a gap between the existing houses, given the scale of the appeal scheme, views between the built form towards the open countryside would still be possible and the linear pattern of development would be maintained. As such, I consider that the appeal scheme constitutes development that can be described as limited.
11. On the basis that I have determined that the appeal site is located within a village and the appeal scheme comprised limited infilling, it meets paragraph 149(e) of the Framework. Consequently, I conclude that the appeal scheme would not be inappropriate development in the Green Belt. Therefore, it would accord with policies SP1 and CS13 of the Core Strategy and paragraph 149 of the Framework in this regard.
12. Whilst the proposed development conflicts with Policy SADM23 of the SADMPP, I have found that this policy is inconsistent with the Framework. Therefore, I attribute limited weight to the appeal scheme's conflict with this policy. On the decision notice, Policy SADM26 of the SADMPP is also listed. As this policy relates to development standards to be achieved within development proposals in the Green Belt, it is not determinative in this main issue.
13. Given my conclusion above, I do not need to assess the impact of the proposed development on the openness of the Green Belt as it has already implicitly been taken into account in the limited infilling in a village exception, even if the Parish Council consider it not to be in keeping with it. Furthermore, an assessment of whether the proposed development would meet any of the other exceptions to new buildings in the Green Belt set out in the Framework is not required.

Character and appearance

14. As the appeal site is located within the SCA I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. The significance of the SCA is derived from the rural setting of the village which has gradually expanded from a hamlet, growing in a linear form along London Road. The role of London Road as a key spine through the village was amplified by the expansion of the SCA, comprising sections of linear development along the road, including the appeal

⁴ R (Tate) v Northumberland County Council [2018] EWCA Civ 1519

site. Further, as identified in the SCA Appraisal, the view along London Road from the village sign close to the appeal site is an important view showing the linear development to one side and the open countryside and rural estates on the other.

15. Although with differing architectural styles and features, the three semi-detached pairs of properties including 1-11 London Road are important elements of the linear form along the road. Whilst creating consistency in the built form, gaps between the pairs ensure the visual connection to the open countryside is maintained and the rural character of this part of the village is prominent.
16. The proposed development comprises a detached dwelling which would be located within one such gap. Although the visual connection to the open countryside would still be possible, the appeal scheme would block a significant part of an otherwise undeveloped area of the garden. Whilst not referenced in the decision notice concerning this main issue, this would be contrary to Policy SADM26 of the SADMPP which seeks to retain existing garden areas in the Green Belt. Irrespective of the comparable scale and appearance to the neighbouring properties, the detached form of the proposed development would introduce an incongruous feature into the road of semi-detached pairs which would diminish the transitional character of the area. Therefore, irrespective of the no in principle objection to a single dwelling on the site from the Council's Place Services, the proposed development would have a detrimental impact on the rural character of the surrounding area. As a result, it would be detrimentally harmful to the character and appearance of the SCA.
17. Concerns have been raised regarding the loss of the existing landscape features to the front of the site as a result of the proposed development, contrary to Policy CS12 of the Core Strategy and policies SADM11 and SADM12 of the SADMPP. These policies, amongst other provisions, require development to conserve the natural and landscape character of the area and retain landscape features that make a valuable contribution to the local environment. However, regardless of the additional plans showing the retention of the existing frontage hedgerow submitted by the appellant as part of the appeal, had I been minded to allow the appeal, a condition could have been imposed requiring a detailed landscaping scheme to be approved by the Council. As such, policies CS12, SADM11 and SADM12 are not determinative in my decision. Furthermore, matters relating to the removal of trees on the site before the submission of the planning application, including whether such works were authorised, fall outside the remit of this decision.
18. I have found that the proposed development would harm the character and appearance of the SCA. In the language of the Framework, the proposed development results in less than substantial harm to the significance of the designated heritage asset on the basis that the proposed development would harm only part of its significance. In these circumstances, paragraph 202 of the Framework states that this harm should be weighed against the public benefits of the proposed development including, where appropriate, securing its optimum viable use. I have attached great weight to the desirability of avoiding any such harmful effect. I will return to this matter below.

Other Matters

19. Social benefits would arise from the provision and occupation of a single dwelling. The Framework affirms the Government's objective of boosting the supply of homes and this is amplified by Policy SH3 of the Shenley Neighbourhood Plan (the Neighbourhood Plan) which sets out the type of need for homes in the local area. The proposed development would provide a three-bed dwelling, following Policy SH3. Therefore, I attach significant weight to this public benefit.
20. It would also provide economic benefits through the provision of jobs during the construction of the dwelling, in the short term, and through supporting local services, facilities and businesses in the longer term. From an environmental perspective, benefits would be derived from new planting, sustainable and energy-efficient construction and several biodiversity enhancements. However, given the scale of the appeal scheme, these economic and environmental benefits would be limited, and I attach modest weight to them as a result.

Planning Balance and Conclusion

21. I have found that the appeal scheme would not be inappropriate development in the Green Belt. However, it would harm the character and appearance of the SCA and would result in less than substantial harm to the significance of a designated heritage asset. As advised by paragraph 202 of the Framework, less than substantial harm should be weighed against the public benefits of the proposed development.
22. As identified above, the proposed development would provide economic and environmental benefits to which I attach modest weight. The provision of an additional dwelling in support of the objective to boost the supply of housing attracts substantial weight. Nevertheless, the weight attributed to these public benefits does not outweigh the great weight to be given to the harm to the heritage asset.
23. As a result, the proposed development would not satisfy the requirements of the Act, paragraph 202 of the Framework and would conflict with policies SP1, CS1, CS14 and CS22 of the Core Strategy and policies SADM26, SADM29 and SADM30 of the SADMPP. In combination, these policies, amongst other requirements, seek to conserve the historic environment including through development which takes account of the existing character and pattern of the surroundings of a site. In so doing, a development that makes a positive contribution to the built environment and retains existing garden areas is promoted. Whilst reference is made to Policy SADM3 of the SADMPP on the Decision Notice, as this concerns the loss or redevelopment of residential sites it is not determinative in the appeal.
24. It would also conflict with Policy SH1 and the accompanying Design Principles and Code, of the Neighbourhood Plan which seek to ensure the design of development in the Green Belt relates positively to its surroundings. Whilst I find conflict with the Planning and Design Guide Part D (2016) regarding respecting the prevailing character on and surrounding a site, as this document has not been adopted by the Council, any weight attributed to the appeal scheme's conflict with this document is minimal. Finally, I find conflict with Chapters 12 and 16 of the Framework and the National Design Guide 2021

- regarding the need for new development to be sympathetic to the character and appearance of its surroundings, including the historic environment.
25. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing sites under paragraph 74 of the Framework, confirming a supply of 2.25 years. In such cases, paragraph 11 of the Framework states that where the policies that are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Such assets include designated heritage assets (footnote 7).
26. Having regard to my findings that the proposed development would result in harm to the character and appearance of the SCA, I consider that the application of the Framework's policies regarding heritage assets provides a clear reason for refusing the proposed development. Consequently, despite the substantial shortfall in the supply of deliverable housing sites, the presumption in favour of sustainable development contained in the Framework would not weigh in support of this case.
27. Therefore, I conclude that the proposed development is contrary to the development plan as a whole and material considerations, including the provisions of the Framework, do not indicate that the proposed development should be determined other than in accordance with the development plan.
28. For the reasons set out above, having had regard to all relevant matters raised, I conclude that the appeal should be dismissed.

Juliet Rogers

INSPECTOR