



Appeal Decision

Site visit made on 7 November 2023

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/B1930/W/23/3318561

Little Bushes, Sleapshyde, Smallford, St Albans, Hertfordshire AL4 0SE

- 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 Mrs Jenny Stayton against the decision of St Albans City & District Council.
 - The application Ref 5/22/2539, dated 17 October 2022, was refused by notice dated 3 March 2023.
 - The development proposed is the demolition of the existing dwelling and outbuildings, the construction of a new dwelling incorporating a residential annexe, changes to the existing access and the removal and pollarding of trees.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and outbuildings, the construction of a new dwelling incorporating a residential annexe, changes to the existing access and the removal and pollarding of trees, at Little Bushes, Sleapshyde, Smallford, St Albans, Hertfordshire AL4 0SE, in accordance with the terms of the application, Ref 5/22/2539, dated 17 October 2022, subject to the conditions within the attached schedule.

Application for costs

2. An application for costs has been made by Mrs Jenny Stayton against St Albans City & District Council. This application is the subject of a separate decision.

Preliminary matters

3. Since the appeal was lodged, a revised National Planning Policy Framework (Framework) has been published. This has not raised any new matters which are determinative in this appeal. Nevertheless, updated paragraph numbers are referenced in this decision letter.
4. As part of the appeal documentation a daylight and sunlight study report has been provided. This report was not before the Council at the time they made their decision on the planning application. However, the Council and other interested parties have had the opportunity to submit representations in respect of it at the appeal stage. Therefore, no parties would be prejudiced by my consideration of this additional information.
5. Having reviewed the bat activity survey report, the Council does not wish to defend the third reason for refusal of the application, which relates to protected species. Therefore, and having regard to the evidence, the effect of the development on protected species is not required to be a main issue.

Main issues

6. The main issues in this appeal are;
- whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework (the Framework); and
 - the effect of the development on the living conditions of the occupiers of Ard Maca, with particular regard to outlook, sunlight and daylight.

Reasons

Whether the development is inappropriate in the Green Belt

7. A single-storey detached dwelling and garden, as well as several outbuildings occupy the site, which is within the Green Belt.
8. An objective of Policy 1 of the City and District of St Albans District Local Plan Review dated 1994 (the local plan) is to control and limit development within the Green Belt. Unless it would conform with one of the policy 1 exceptions; very special circumstances apply, or it would comprise development in Green Belt settlements as referred to in policy 2, policy 1 indicates that permission will not be given for development in the Green Belt. Within local plan policy 2, Green Belt settlements and additional exception criteria relevant to such settlements are identified.
9. At paragraph 142 of the Framework, it is stated that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. Paragraph 152 guides that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Framework paragraph 154 then indicates that the construction of new buildings in the Green Belt should be regarded as inappropriate unless the development meets one of several stated exceptions. An exception at 154 e). is for limited infilling in villages. Openness is implicitly taken into account within this exception.
10. Even if the development would facilitate support for a family member at the same time as enabling them to retain a degree of independence, this private benefit would not amount to a very special circumstance. Nor has it been demonstrated that the proposals would accord with any of the other relevant exceptions identified within local plan policies 1 or 2.
11. The appeal site comprises one of a cluster of closely related residential properties within the settlement of Sleepshyde. Furthermore, and on the basis that local plan policy 2 identifies this settlement to be a smaller village, the appeal site is within a village.
12. 'Limited infilling', as referred to within paragraph 154 e). is not defined within the Framework. Nor has any definition from the local plan been provided. As such these words are given their ordinary and natural meanings.
13. Although I do not have the full details of the cases, in the Ard Maca appeal, the Inspector found that the proposal would not represent limited infilling within a village, as it would involve the replacement of an existing dwelling. However, in the 30 Barker Lane appeal, the Inspector took an alternative view, finding that the development proposal, which was to involve the demolition of a dwelling and construction of 2 houses, would represent limited infilling in a village.

Notwithstanding these differing findings, the Framework does not require limited infilling with villages to be on vacant land. As such, and on the evidence before me, I do not accept that this is a prerequisite. Nor do I agree that a net gain in the number of houses proposed on the site is necessary for a development proposal to be considered under the exception at 154 e).

14. The proposed buildings would have a larger bulk and massing than those they would replace. They would also spread across a larger area of the site. However, the proposed single dwelling and a carport would be located within a built-up area of the village. The buildings would also be of a scale that is not dissimilar to others nearby. Furthermore, when viewed from the street to the front of the site, the proposed dwelling would have a similar height to the houses at Little Rose Cottage, Penlu, and Ye Olde House. For these reasons, the proposed development would be both limited in its extent and represent infilling within the village.
15. Unlike the exception at 154 e). of the Framework, the exception at 154 d). does not require the appeal site to be within a village. However, as I have found that the development would constitute limited infilling within a village, it is not necessary to also consider its conformity with the other paragraph 154 exceptions.
16. In respect of development proposals within villages in the Green Belt, local plan policies 1 and 2 are generally more restrictive than the Framework provisions. This is because they do not ordinarily allow for the delivery of a broader range of developments that would constitute limited infilling. Therefore, and in respect of this appeal, these policies are not deemed to be wholly consistent with the more up-to-date Framework. As such, limited weight is given to the conflict between the appeal scheme and local plan policy 1, and great weight is attributed to the proposal's compliance with the exception at 154 e). of the Framework.
17. For the reasons given, the proposed development would not be inappropriate development in the Green Belt. Although it would not strictly comply with policy 1 of the local plan, it would comply with paragraphs 142, 143, 152 and 154 of the Framework, where they seek to prevent inappropriate development within the Green Belt.

Living conditions

18. The proposed house would be constructed parallel to the whole depth of the rear garden serving Ard Maca. However, a pathway would separate the proposed house from the common boundary between the two properties. Furthermore, the parts of the building that would be constructed closest to Ard Maca would be single-storey, and the roof form of most of these parts of the building would slope up and away from this neighbouring property. Although the height of the single-storey kitchen breakfast room would exceed other parts of the house close to the common boundary, this part of the development would be set further back from Ard Maca. As such, and given its limited bulk, neither this feature nor the other parts of the development that would be visible above the tall close-boarded fence dividing the 2 properties, would be oppressive when viewed by users of the house and garden at Ard Maca.
19. Because of its proximity to Ard Maca, as well as its increased height and bulk, the implementation of the proposed development would result in a very modest

reduction in the amount of sunlight and daylight available within rooms to the rear of Ard Maca. However, the levels of light in the affected rooms, including the kitchen, would be sufficient to prevent harm being caused to the living conditions of the occupiers of the property. This is because the parts of the proposed house that would be closest to Ard Maca would be single-story, and a reasonable separation distance would remain between the proposed dwelling and the windows within the rear of Ard Maca. Furthermore, in terms of light to rooms in Ard Maca, the daylight and sunlight study report indicates that the development would be in accordance with Building Research Establishment guidelines.

20. For the reasons set out above, the development would not cause harm to the living conditions of the occupiers of Ard Maca, with particular regard to outlook, sunlight, or daylight. Consequently, it would comply with policies 69 and 70 of the local plan. These policies require development to be of an adequately high standard of design that takes into account context. In respect of new houses, it is also required that suitable levels of sunlight and daylight be achieved, and that the massing and siting of buildings would create safe, attractive spaces. The development would also comply with paragraph 135 of the Framework which seeks to ensure that development results in attractive places to live, and which would result in a high standard of amenity for existing occupiers.

Other matters

21. Due to the high level of the kitchen window which would address the garden of Ard Maca, users of the kitchen would not ordinarily be able to look out over the rear of the house or garden of Ard Maca. Therefore, and even if this window is clear glazed, no harmful loss of privacy for the occupiers of Ard Maca would result.
22. The appeal site is located within the Sleafshyde Conservation Area. The significance of the part of the Conservation Area in which the appeal site is located, is in part, informed by the wide variety in the design, scale, siting and external materials of houses. Although the size and scale of the proposed house would be greater than both the existing dwelling and the neighbouring house at Ard Maca, in respect of these matters, it would not be incongruous when compared with other buildings nearby. Furthermore, the design of the house and the use of slate for roofing; a mix of timber boarding, brickwork and render for the walls; and timber framed windows, would emulate materials and features found within nearby buildings. For these reasons, the proposed development would preserve the appearance of the Conservation Area.
23. The grade II listed buildings at 1, 2, and 3 Ye Olde House, and Rose Cottage and Little Rose Cottage, are close to the appeal site. Comprising, at least partially, weatherboarded timber framed structures with plain tile roofs, with parts dating from the c17 or possibly earlier, the significance of these buildings is their historic fabric and detailing. The setting of these buildings is informed by nearby existing residential development and associated infrastructure, as well as by trees and hedgerows. Due to the limited scale of the proposals and the presence of intervening, houses, trees and hedgerows, the setting of these listed buildings would be preserved, and their significance as heritage assets would be unharmed by the implementation of the development proposals.
24. Preliminary roost assessment and bat activity survey reports were submitted as part of the application. These confirm that droppings from Common Pipistrelle

bats were witnessed in external locations near the soffits and fascia boards of the existing dwelling. Despite no bats being witnessed exiting from or re-entering the dwelling during the dusk emergence /dawn re-entry surveys, the evidence suggests that the building had been used as a maternity roost. On this basis, there is a high probability of a bat roost being present within the existing dwelling.

25. In the absence of a mitigation strategy and method statement related to bats and their roosts, it is reasonable and necessary to impose a condition requiring this detail to be submitted to and approved by the Local Planning Authority. This is to ensure that any losses would be minimised and that unavoidable losses would be adequately mitigated or compensated.
26. Also, and in addition to planning permission, a European Protected Species (EPS) licence from Natural England will be required to undertake the proposed works. From the evidence before me, and subject to a suitably detailed licence application being made, I have no reason to doubt that the derogation tests would be met, and that such a licence would be granted.
27. The site is within the zone of influence of several sites of special scientific interest (SSSI's), including the Water End Swallow Holes, Redwell Wood, Northaw Great Wood, and Bricket Wood Common SSSI's. These sites are variously important for their; chalk sinkholes with adjacent willow Car/swamp communities; ancient woodland and heathland, and extensive areas of ancient hornbeam and flora-rich lowland heath.
28. The Chilterns Beechwood Special Area of Conservation (SAC), and the Wormley-Hoddesdonpark Woods SAC designated sites are also within Hertfordshire. The qualifying features of the Beechwood SAC are the semi-natural dry grasslands and scrubland facies on calcareous substrates, the beech forests, and the stag beetles contained within it. A threat to the conservation status of this SAC is recreational pressure from additional housing within its zone of influence. The qualifying features of the Wormley-Hoddesdonpark Woods SAC are its sub-Atlantic and medio European oak or oak-hornbeam forests. Vehicles and air pollution are identified as a threat to these features.
29. However, both alone and in combination with other plans or projects, the implementation of the development and its subsequent use would not give rise to risk of likely significant effect on the internationally important features of the SACs or the important features of the SSSIs. This is because of both the distance of the appeal site from the identified SACs and SSSIs and, because there would be no net increase in the number of residential units within the site. Natural England has been consulted on the proposals, and it agrees the development is unlikely to impact on designated sites.

Conditions

30. Some of the Council's suggested conditions have been consolidated, and the wording has been amended where appropriate. This is for clarity and to meet the six tests within paragraph 56 of the Framework.
31. The statutory condition which specifies the time period for the implementation of the permission is imposed. For clarity, a plans condition is also added which identifies the plans to which the permission relates.

32. Materials and landscaping conditions are imposed to protect the character and appearance of the area. The landscaping condition is required to be a pre-commencement condition to prevent harm being caused to those soft landscaping features within the site that are to be retained. To prevent harm being caused in respect of highway safety, it is also necessary for a surface water condition to be added.
33. As previously indicated, a condition is imposed requiring the provision of a mitigation strategy and method statement related to bats and their roosts. This is because bats are European-protected species, and their roosts are also protected. A pre-commencement condition is required in this instance, to minimise loss and to ensure that any unavoidable losses would be suitably mitigated or compensated.
34. The Council has requested a condition removing certain permitted development rights for the enlargement or extension of the dwelling. However, no compelling evidence has been put before me from which to conclude that such extensions or additions would cause harm in respect of the Green Belt or living conditions. As such this condition would not be necessary or reasonable.

Conclusion

35. The proposed development conflicts with policy 1 of the local plan. As such it does not comply with the development plan as a whole. However, in this case, the provisions of the Framework indicate that permission should be granted.
36. For the reasons given, this appeal should be allowed and planning permission be granted.

V Simpson

INSPECTOR

Schedule of conditions

- 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: AT1041-01, AT1041-02, AT1041-03, AT1041-04, AT1041-05, AT1041-06, AT1041-07, AT1041-08 and AT1041-12A.
- 3) No development shall commence prior to a mitigation strategy and a method statement related to bats and their roosts being submitted to and approved in writing by the Local Planning Authority. The development shall subsequently be undertaken in accordance with the approved details.
- 4) No development shall commence until a scheme for both hard and soft landscape proposals has been submitted to and approved in writing by the local planning authority. These details shall include;
 - proposed finished levels and contours;

- means of enclosure and retaining structures;
- boundary treatments;
- vehicle parking layouts;
- other vehicle and pedestrian access and circulation areas;
- hard surfacing materials;
- vegetation to be retained as well as a scheme for the protection of the retained vegetation during the demolition and construction phases of the development;
- soft landscaping works, which shall include planting plans and schedules of plants - noting species, plant sizes, and numbers/densities;
- an implementation programme; and
- a maintenance programme.

The development shall be undertaken in accordance with the approved details.

- 5) No development above slab level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall subsequently be carried out in accordance with the approved details.
- 6) From the first use of the development hereby permitted, surface water from the development shall be intercepted and disposed of separately so that it does not discharge onto the highway carriageway.
- 7) 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.

End of conditions.