



Appeal Decision

Site visit made on 23 January 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2024

Appeal Ref: APP/J1915/W/23/3323073

The Chalk Pit, The Causeway, Furneux Pelham SG9 0LW

- 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 Jeremy Hinton against the decision of East Hertfordshire District Council.
 - The application Ref 3/22/0719/FUL, dated 4 April 2022, was refused by notice dated 2 December 2022.
 - The development proposed is a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling at The Chalk Pit, The Causeway, Furneux Pelham SG9 0LW in accordance with the terms of the application Ref 3/22/0719/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. Notwithstanding the description of development on both the decision notice and the appeal form, this appeal has been determined on the basis that the proposal is that stated on the application form.
3. On the decision notice it is indicated that the appeal site is within the Furneux Pelham Conservation Area. However, other application and appeal documentation demonstrate that the appeal site is outside of but adjacent to the Conservation Area (CA). I therefore proceed on that basis.
4. I have considered the comments made by the main parties in respect of the revised National Planning Policy Framework (the Framework) in determining this appeal.

Main Issues

5. The main issues are the effect of the development on;
 - the character and appearance of the area and the significance of the Furneux Pelham Conservation Area; and
 - whether the appeal site is a suitable location for the proposed development, with particular regard to the spatial strategy within the development plan.

Reasons

Character and appearance

6. In common with the similarly sized adjacent 'paddock' area, the site fronts onto the road known as the Causeway, and is largely surrounded by trees. There are

also additional trees across the site. The tree and shrub growth afford the site a sense of intimacy and enclosure. This is in sharp juxtaposition with the much larger and open fields, to the south and west of the appeal site and on the opposite side of the Causeway.

7. Much of the village of Furneux Pelham is within the Furneux Pelham Conservation Area (CA). The significance of the CA is partly informed by the many historic buildings within it, which enable the historic evolution of this rural village to be understood. Areas of open space and many of the roadside hedgerows and trees within the CA also reinforce the links between the historic rural village and the agricultural land beyond it. The agricultural land and fields surrounding the CA therefore make a positive contribution to its significance. They also contribute to the pleasant and verdant character and appearance of the area.
8. The adjacent 'paddock' which is within the CA, is identified as an important open space within the Furneux Pelham Conservation Area Character Appraisal¹ (the CA appraisal). However, the proposed development would not encroach onto this land. Furthermore, there is no proposal to remove the trees and hedgerows along the boundary between the appeal site and the 'paddock'. The qualities of this adjacent area of open space and its value to the CA, would not therefore be diminished following the implementation of the proposed development.
9. The on-site trees and hedgerows contribute to the verdancy and distinctive quality of the area. Drawing number 04/C which is a proposed plan, shows the retention of trees within the site. While it would be necessary to cut back the roadside hedgerow to secure the identified visibility splays, from the evidence, most of this hedgerow and the trees within it, could be retained.
10. Only the small 'paddock' separates the appeal site from the built-up edge of the village of Furneux Pelham. Furthermore, existing trees and hedgerows along the site boundaries would prevent all but glimpses of the proposed development when approaching the village along the Causeway. Therefore, and subject to the retention of most of the onsite trees and hedgerows, the proposed development would not comprise a form of ribbon development that would harmfully erode the rural character of the area. Nor, given its very different characteristics from that of much of the nearby agricultural land, would it cause harm to the significance of the CA.
11. To prevent harm being caused to either the character and appearance of the area or to the significance of the CA, it would be necessary to impose a condition requiring a landscaping scheme to be provided to and agreed upon by the local planning authority. If it is necessary to remove any trees or stretches of hedgerow, the condition would require suitable replacement provision be made. It would also require that retained trees be protected during the works.
12. For the reasons given, the proposed development would not cause harm to the character and appearance of the area or to the significance of the CA. Consequently, and insofar as they relate to this main issue, the development would comply with policies GBR2, DES2, DES4, HA4, and INT1 of the East Herts Council East Herts District Plan October 2018 (the Local Plan). Amongst other things, these policies require development to be of a high standard of

¹ Furneux Pelham Conservation Area Character Appraisal and Management Proposals – Adopted 2017

design and layout; to conserve the character and distinctive features of the landscape; and to preserve the special interest, character, and appearance of conservation areas. It would also comply with the parts of the Framework that seek to ensure that development conserves the historic environment and is of a high-quality of design that is sympathetic to local character and history.

Development strategy

13. Policy INT1 of the Local Plan provides a presumption in favour of sustainable development. Further to this, Local Plan policy TRA1, which relates to sustainable transport, seeks to ensure that development is primarily located in places that enable sustainable journeys to be made. It also requires that a range of sustainable transport options be available to future occupants.
14. Within the Local Plan, Furneux Pelham is identified as a group 2 village, where policy VILL2 of the Local Plan provides general support for limited infill within the settlement. However, the Local Plan shows that the appeal site is located outside of the Furneux Pelham village settlement limits, and that it comprises a rural area beyond the Green Belt. Local Plan policy GBR2 identifies the types of development that will normally be permitted in such areas. It includes development that constitutes the partial or complete redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance, and setting of the site and/or surrounding area.
15. A definition of previously developed land (PDL) is provided within the glossary of the Framework. Although vacant at the time of my site visit, there is a building on the site. Furthermore, the evidence indicates that minerals were historically extracted from the site, and that it was subsequently used for landfill waste disposal. Moreover, during my site visit waste was observed within the top layer of made ground, and the Council indicates that there has been no provision for the restoration of the site through development management procedures. Therefore, and based on the evidence and my on-site observations I have been unable to establish that any of the exclusions specified within the Framework PDL definition apply. I therefore have no reason to conclude that the site is not PDL, and so proceed on the basis that it is.
16. The evidence indicates that Furneux Pelham contains a range of services and facilities. These include a school; pub; church; village hall; shop; doctors surgery; and post office, as well as bus stops from which busses to nearby towns can be secured. Therefore, and although the appeal site is located a short distance outside of the village boundary, this does not necessarily mean that the site is in an unsustainable location for residential development.
17. Albeit a snap-shot in time, during my site visit I found the Causeway to be a very lightly trafficked road, with good forward visibility, and I have no reason to doubt that these circumstances were a-typical. Furthermore, and despite the stretch of road closest to the appeal site being subject to a 60mph speed limit, the submitted speed survey demonstrates vehicles travelling significantly slower than the speed limit past the site. For these reasons, and given the proximity of the appeal site to local services and facilities within the village, the absence of street lighting or pavement alongside parts of the causeway, is unlikely to discourage or prevent future occupiers from accessing these services and facilities by means other than by private car.

18. I have already concluded that the development would not cause harm to the character and appearance of the area. As such, and for the reasons previously given, the appeal site is a suitable location for the proposed development, with particular regard to the spatial strategy within the development plan. Consequently, the development would comply with policies GBR2, INT1 and TRA1 of the Local Plan. It would also accord with the Framework where it promotes sustainable development and seeks to support the government's objective to significantly boost the supply of homes.
19. As the appeal site lies outside of the settlement boundary of Furneux Pelham, and there is no adopted neighbourhood development plan, Local Plan policy VILL2 does not lead me away from my previous findings.

Other Matters

20. Given that the appeal site is within the rural area beyond the Green Belt and on the basis that it is PDL, there is no policy-based requirement for the development to constitute infill development.
21. Planning permission was refused for residential development on the 'paddock' (application reference 3/19/0379/FUL). However, that site is within the CA, and identified within the CA appraisal to be an important open space to be protected. These considerations do not apply in this case, and as such the two schemes are not directly comparable.
22. If suspected or actual human remains were to be found during any site clearance or excavation works, then this would be a police matter.
23. Notwithstanding the presence of plants throughout the site, the restoration of the land and any associated removal of contaminants, would bring environmental benefits to both the ground and water environment.

Conditions

24. Some of the Council's suggested conditions have been amended for clarity and to meet the six tests within paragraph 56 of the Framework. Further conditions have also been added.
25. 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.
26. Materials and landscaping conditions are imposed to protect the character and appearance of the area and the distinctiveness and significance of the CA. Furthermore, and because the trees and hedgerows within the site could be affected by the initial works, it is necessary for one of the landscaping conditions to be a pre-commencement condition.
27. A condition is also required to ensure that the development would not cause harm to the biodiversity value of the site.
28. To protect human health and the environment from contaminants within the site, a condition is imposed requiring that a remediation scheme be submitted to and approved by the local planning authority. This needs to be a pre-commencement condition, to ensure that any ground clearance or excavation works would not cause harm to human health or the environment.

29. To ensure that the development does not cause harm to highway safety, a condition is needed to secure the provision and retention of visibility splays at the access between the site and the Causeway. However, given the size of the site and its comparative topography with the adjacent road, conditions preventing the occupation of the dwelling before the proposed parking and manoeuvring spaces are provided, or which would prevent the discharge of surface water onto the highway, are not necessary. Furthermore, and because it is covered by other legislation, there is no need for a condition preventing materials from being deposited on the highway during the works.

Conclusion

30. For the reasons given above, and having regard to the development plan as a whole and any other relevant material considerations, I conclude that 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: Site location plan dated 28 March 2022, 04/C, 05/A, 06/A, and site sections 08.
- 3) The development hereby permitted shall not begin until a scheme to deal with contamination of land, ground gas, and controlled waters has been submitted to and approved in writing by the local planning authority. The scheme shall include all of the following measures, unless the local planning authority dispenses with any such requirement specifically in writing;
 - a supplement to the Phase II Geoenvironmental Ground Investigation report prepared by agb environmental dated 29 March 2021, with respect of ground gas production and controlled waters on site. This supplement shall detail all additional investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice. The report shall include a detailed quantitative human health and environmental risk assessment; and
 - a remediation scheme detailing; how the remediation will be undertaken; what methods will be used and what is to be achieved; the end point of the remediation and how this will be validated; and any ongoing monitoring.

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

If during the works, contamination is encountered which has not been previously identified, then development works shall cease until the additional contamination has been fully assessed, and an appropriate remediation scheme has been submitted to and approved in writing by the local planning authority. The development may then be recommenced and undertaken in accordance with the approved details.

Prior to the first occupation of the dwelling, a validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted to and approved in writing by the local planning authority. Such details shall include the results of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria, together with documentation detailing what materials have been removed from the site.

- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a landscaping scheme. The scheme shall identify;
 - details of measures to protect the retained trees and hedgerows within the site, throughout the course of development;
 - if any trees or sections of hedgerow are required to be removed to facilitate the provision of the visibility splays or to prevent harm to highway safety, details of proposed replacement planting;
 - soft landscaping proposals; and
 - an implementation programme.The development shall subsequently be undertaken in accordance with the approved details.
- 5) No development above slab level shall commence until details of the materials to be used on 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) If, within a period of 5 years from the completion of the development, any trees or plants that are planted or retained in accordance with condition 4, die, are removed, or become seriously damaged or diseased, these shall be replaced in the next planting season with others of similar size and species.
- 7) No structure, erection, shrubs, trees, or other vegetation, that would exceed 0.6metres in height, shall be placed or allowed to grow within the visibility splays detailed on drawing number 04/C.
- 8) The development shall be undertaken and subsequently occupied in accordance with the precautionary working methods and low-impact lighting measures identified within table 3 of the preliminary ecological assessment produced by Arbtech and dated 26 February 2022.

End of conditions