



Appeal Decision

Site visit made on 7 November 2023

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 May 2024

Appeal Ref: APP/J1915/W/23/3322310

Barn Field, Hay Street, Dassels SG11 2RW

The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.

The appeal is made by Mr and Mrs S Madsen against the decision of East Hertfordshire District Council.

The application Ref is 3/22/2431/OUT.

The development proposed is described as outline application for max 6 new houses.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was made, the Government published the revised National Planning Policy Framework (the Framework) and the 2022 Housing Delivery Test results. In the interests of natural justice, both main parties have had the opportunity to make representation.
3. The application is in outline with matters of access, appearance, landscaping, layout and scale reserved for future consideration (the 'reserved matters'). I have therefore dealt with the appeal on this basis, treating the submitted proposed plans as indicative.
4. The description of development refers to a maximum of 6 houses. I have therefore considered the appeal on this basis.

Main Issues

5. The main issues are:
 - Whether the principle of the proposed development would be acceptable in this location, having regard to the character and appearance of the area and its accessibility to services and facilities,
 - The effect of the proposed development on highway safety; and,
 - The effect of the proposed development on existing trees.

Reasons

Principle

6. For planning policy purposes, Dassels is not part of Braughing. Dassels is classed as a Group 3 Village under Policy VILL3 of the East Herts District Plan 2018 (the DP).

7. Subject to meeting the prescribed criteria of Policy VILL3, limited infill development in a Group 3 Village identified in an adopted Neighbourhood Plan will be permitted. The appeal site is located within the boundary of the Braughing Parish Neighbourhood Plan 2017 – 2033 (the Neighbourhood Plan). However, it is not a site identified for housing by the Neighbourhood Plan. Residential development on the site would therefore not be permitted by Policy VILL3.
8. The appeal site lies within an area identified as the 'Rural Area Beyond the Green Belt'. Policy GBR2 of the DP seeks to maintain the rural area as a valued countryside resource by permitting limited infilling in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.
9. The appeal site is elevated above road level and consists of a field with trees and a stable. It is adjoined by open countryside and the boundary of one house, with a considerable distance from the house itself. The spaciousness and mature landscaping give the site its distinctive rural character. It plays an important role in marking the transition between the hamlet and the open countryside and therefore makes a positive contribution to the character and appearance of the area.
10. There are two different patterns of development in the immediate area. One side of Hay Street is typically characterised by more built-up housing, generally displaying closer spacing, set parallel to the road. The housing clustered around the junction of Hay Street and Hobbs Lane is fairly sporadic and has a looser-knit form. The appeal site is separated by the roads from the nearby housing and reinforces its position outside of the more urbanised pattern of development. It is therefore more visually and functionally related to the wider countryside than the existing housing.
11. The Council identified no harm to be caused to the setting of the listed buildings in Hay Street. As these buildings are on the opposite side of the road to the appeal site, they are in a different character area.
12. While all matters are reserved, the size and shape of the appeal site give a good indication of the likely layout if 6 houses were built on the site. 6 is not a large number. However, when considering this as the maximum number of units, the development would cover a large part of the site. Even if I were to accept that the development would constitute infilling, given the size of the appeal site and what it can likely reasonably accommodate, 6 houses on the site would not be limited.
13. Whilst an Inspector may have found 5 houses elsewhere to be reasonably interpreted as limited¹. I have not been provided with a copy of this appeal decision and I am not party to the evidence before the Inspector. I have reached my own findings based on the merits of this case.
14. When considering the maximum number of units proposed, combined with the new road, likely parking provision and associated domestic paraphernalia, a substantial amount of built form would be introduced. The resultant domestic creep would erode the spaciousness, diminishing this key characteristic to an unacceptable degree. The subsequent urbanising effect would detrimentally

¹ APP/C1570/W/19/3241822

harm the rural character of the appeal site, undermining the sense of transition to the open countryside.

15. Although indicative, the block plan shows that the tree belt surrounding the appeal site would be retained. In some longer-range views, the existing tree belt screens the appeal site. There are gaps between some of the trees along Hay Street, where the appeal site can be seen in shorter-range views, despite the density of the foliage. Notwithstanding that landscaping is reserved for future consideration, even if additional landscaping would be secured to screen the development, this would not mitigate the significantly harmful urbanising effect of the development on the spacious character of the appeal site.
16. As the description of development refers to the maximum number of houses, it would not be within the spirit of the application to impose a planning condition that reduces the number of houses to less than 6.
17. The proposed development would therefore not constitute limited infilling that is appropriate to the character and appearance of the site and surrounding area. Subsequently, it would cause harm to the character and appearance of the area.
18. The list of approved developments referred to by the appellant, also relate to schemes for housing and have some parallels with the development proposed in this case. However, there is limited evidence to demonstrate that these sites are directly comparable to the appeal scheme, particularly in terms of character and appearance. Considering the specific sites highlighted in the appellant's statement of case, site 9 which is in the immediate area, pre-dates the development plan and the Framework. Site 16 appears to have existing buildings on the site and site 14 is in an area with a more tight-knit and regular development pattern. These site characteristics are different to the appeal site. As I can therefore draw no direct parallels, these examples carry limited weight.
19. Whilst the appeal site is outside of a settlement boundary, there is no definition of settlement, as endorsed by a High Court Judgement². Given the presence of housing nearby, the appeal site is not isolated in the context of the Framework.
20. Group 3 Villages are identified as the least sustainable locations for development in the district. Dassels itself has very few local services. Whilst limited in its services and facilities, Braughing is within a reasonable walking and cycling distance from the appeal site.
21. There is a bus stop very close to the appeal site where a bus service to larger villages can be accessed and also includes a school bus service. Although the bus service may offer limited flexibility, bearing in mind that opportunities to maximise sustainable transport will be more inherently limited in rural areas, the development would not be wholly car dependent. Future occupants would therefore have an alternative to car use to access day-to-day facilities and services further afield. The appeal site is therefore in a sustainable location and complies with the sustainable development aims of Policies TRA1 and DPS2 of the DP.

² City and Country Bramshill Ltd v SSHLG and others [2021] EWCA Civ 320

22. In all the decisions cited by the Council³, the sites were found to be in unsustainable locations. This is not the case in this appeal. These decisions are therefore not directly comparable and have limited weight.
23. Whilst the appeal site is in a sustainable location, for the reasons given above, the principle of the proposed development would not be acceptable in this location, having regard to the character and appearance of the area. Accordingly, it conflicts with Policies GBR2, VILL3 and DES4 of the DP and Policy 1 of the Neighbourhood Plan. Amongst other things, these policies require new development to be compatible with the character and appearance of the rural area. These policies are also broadly consistent with the Framework in allocating sites and seeking development that is sympathetic to local character.

Highway safety

24. Notwithstanding that access is reserved for future consideration, the development would be accessed from Hobbs Lane, which is a narrow track.
25. Hobbs Lane is described as a 'definitive footpath', with limited details provided to expand upon this. Based on my observations, Hobbs Lane is not heavily used by vehicles. Vehicles both entering and exiting the lane is an existing arrangement with vehicles having to wait to enter if another vehicle is exiting. It is indicated that 1 road traffic accident has been recorded in the last 23 years. There is no substantive evidence before me to dispute this.
26. The junction appears to have previously been widened and broadens out as it reaches Hay Street. Because of its width and depth, generally, there is enough space for vehicles to wait at the junction until it is clear to enter Hobbs Lane, without having to wait on or reverse onto Hay Street. When exiting from Hobbs Lane onto Hay Street, this part of Hay Street is relatively straight, with good visibility in both directions, so drivers would be aware of oncoming vehicles. The access is proposed not far from the junction. Vehicles would therefore need to drive a short distance along Hobbs Lane before they entered the appeal site, reducing the conflict with on-coming vehicles.
27. The development would give rise to some increased use of the junction. However, I am advised that peak hour traffic generation would be low, for the maximum number of houses proposed. The increase in traffic from the development would be moderate and I have no substantive evidence that existing highway safety concerns would be materially exacerbated.
28. Should the appeal succeed, other matters relating to the highway could be addressed by way of pre-commencement condition and further details about access could be considered under a future reserved matters application.
29. Drawing this together, based on the evidence from the submissions and the findings from my site visit, the proposed development would therefore not have an adverse effect on highway safety. Accordingly, it would comply with Policy TRA2 of the DP, which requires access proposals to be acceptable in highway safety terms.

³ 1 Whempstead Road, Land at Crabbs Lane, Land West of The Grove, 31 Burnham Green Road

Trees

30. The trees within the more central part of the appeal site, have the potential to be impacted by the development. However, I have not been advised that these trees are protected as part of a preservation order, nor is there any substantive evidence before me regarding their health and life expectancy. Without evidence to the contrary, even if these trees were lost, they make a limited contribution to the character. It is the trees surrounding the site boundary, particularly those closest to Hay Street, which positively contribute to the verdant character.
31. Whilst acknowledging that layout is reserved for future consideration, the indicative site plan shows that the housing could be laid out to be away from the tree belt along Hay Street. Should the appeal succeed, planning conditions could also be imposed to identify the trees to be retained as well as protection during construction.
32. The proposed development would therefore not cause harm to the existing trees. Accordingly, there would be no conflict with Policy DES3 of the DP which requires development proposals to retain, protect and enhance existing landscape features which are of amenity value.

Other Matters

33. Matters regarding title deeds, land ownership and rights of access are a civil matter between the parties involved.

Planning Balance

34. For the reasons set out above, the proposed development would conflict with Policies GBR2, VILL3 and DES4 of the DP and Policy 1 of the Neighbourhood Plan. Whilst it does comply with other policies of the development plan, this conflict means the proposed development conflicts with the development plan as a whole. I apportion significant weight to this conflict and to the associated harm.
35. The Council previously indicated that they could demonstrate a 4.41-years supply of deliverable housing sites. Over the course of the appeal, the Council have since confirmed that they can currently demonstrate a 5.95-years housing land supply. The appellant disputes this, considering that the Council can only demonstrate a 4.75-years supply. They also indicate that the Council failed its Housing Delivery Test.
36. The proposed development would be supported by parts of the Framework with regard to boosting the supply of homes by providing up to 6 additional homes. It would also help to address the shortfall in housing allocations set out in the Neighbourhood Plan. As this is a small site, it could be delivered quickly. A limited amount of short-term employment would arise through the construction of the development and some further limited benefits would result from the additional support to the vitality of the surrounding areas from the future occupants. Taken together, these benefits attract only moderate weight given the quantum of development under consideration.
37. As residential development is expected to meet energy efficiency standards, the intention to provide electric vehicle charging points and renewable energy measures are neutral matters and do not weigh in favour of the development.

38. Even if I were to conclude there is a shortfall in the 5-year housing land supply on the scale suggested by the appellant and that the development plan policies are out of date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

39. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

L Reid

INSPECTOR