



Appeal Decision

Site visit made on 14 June 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/J1915/W/23/3327372

Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr C Bullock against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1036/FUL.
 - The development proposed is the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached four-bedroom dwelling and associated access, parking area, residential garden, and hard and soft landscaping at Home Farm, 76 Bramfield Road, Datchworth, Hertfordshire SG3 6RZ in accordance with the terms of the application, Ref 3/23/1036/FUL, subject to the conditions in the attached schedule.

Applications for costs

2. An application for costs was made by Mr C Bullock against East Hertfordshire District Council. This is the subject of a separate decision.

Preliminary Matters

3. In December 2023, and since the Council made its decision on the application, a revised version of the National Planning Policy Framework (the Framework) has been published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

4. The main issues are:
 - Whether the proposal would amount to isolated housing in the countryside, having regard to the relevant policy within the Framework, and whether the proposal accords with relevant policies within the development plan which control housing in rural areas; and
 - The site's accessibility to services, facilities and sustainable transport modes.

Reasons

Rural and isolated housing

5. The site is located within the village of Bull's Green, and it is situated beside residential properties. Bull's Green adjoins the village of Burnham Green. Both villages predominantly contain residential properties but include some, albeit limited, facilities. This includes, very near the site, The Horns pub. The surrounding area includes other villages such as Datchworth and Tewin. All of these villages are located within an area which is largely rural in character.
6. As the site is set amongst the built-up parts of Bull's Green, it forms part and parcel of a village. It is not separated nor detached from the houses and other buildings within Bull's Green and, together with the adjoining Burnham Green, the site forms a part of a consolidated tract of settlement. For these reasons, the site is not within an isolated position. Consequently, the Framework's policy on isolated homes in the countryside set out at paragraph 84 is not relevant to the proposal and, in turn, there is no conflict with it.
7. Bull's Green and Burnham Green are each identified as Group 3 Villages by Policy VILL3 of the East Herts District Plan (LP). This policy permits limited infill development within such villages, but only where it is specifically identified within an adopted neighbourhood plan. In this case, no adopted neighbourhood plan identifying such development applies. As a result, the proposal conflicts with this policy.
8. Policy DPS2 of the LP sets out a development strategy. It accepts limited development within villages. However, given that Policy VILL3 requires that development in Group 3 Villages must be identified within a neighbourhood plan, and as that would not be the case here, I find that the proposal does not constitute the type of limited village development advocated by DPS2. Therefore, I also find that the proposal does not accord with the development strategy set out within DPS2.
9. Consequently, although the proposal would not amount to isolated housing in the countryside in the terms of the Framework, for the reasons I have set out, it would, nevertheless, conflict with the aforementioned development plan policies that control the location of housing in rural areas. Amongst other matters, those policies adopt a particular approach to the direction and scale of housing within the District's villages. There is nothing about this approach I find to be inconsistent with content within the Framework. I return to the weight I attribute to the development plan policy conflicts I have identified later in my decision.

Accessibility

10. As Group 3 Villages, I accept that both Bull's Green and Burnham Green contain a limited array of services and facilities. In order to access the typical range of services that they would likely require frequently, the future occupiers of the proposed development would have to travel further afield. I expect that there would be a reliance upon a private car – likely for any commuting requirements and to access the types of services small villages do not have – such as supermarkets for instance.

11. That said, the local area nevertheless contains various services and facilities. Many of these are not very far away from the site. In the context of the rural area the site is within, the site has some accessibility credentials of merit.
12. Firstly, and very near to the site, is a pub and a bus stop. Although the bus services provided are infrequent and it is not served by a formal shelter, it would nevertheless, at particular times in the week, provide an alternative sustainable travel option. The buses run to bus and railway stations in larger settlements such as Hertford – places with many facilities and onward connection options.
13. Burnham Green has a beautician's, a pub and a playground. Bull's Green is separated from Datchworth by only a small tract of countryside through which Bramfield Road runs. Datchworth contains pubs, a coffee shop, a convenience store, a village hall, sports facilities and a playground. For what is quite a small settlement, I consider this to be a good array of facilities. Although the routes along which these facilities in Burnham Green and Datchworth are not all served by streetlights and footpaths, they are each close enough to the site that, on a pleasant day, prospective occupiers of the development may well choose to walk or cycle to them.
14. Consequently, there would be options available to the future occupiers of the development to access services and facilities without being wholly reliant upon a private car. Furthermore, when a car is to be relied upon, given the number of nearby settlements and the collection of facilities within them, only short trips would be necessary at times. Dedicated cycle storage is proposed within the development which would assist in encouraging cycling as a transport option. An electric vehicle charging point is also proposed, albeit, this is a requirement of building regulations anyway.
15. In the round, and in the context of the rural area it is set within, I therefore find the site's accessibility to services, facilities and sustainable transport modes to be acceptable. The proposal complies with Policy TRA1 of the LP which, amongst other matters, requires that development be located in places which enable sustainable journeys to be made to key services and facilities and seeks to ensure that a range of sustainable transport options are available to development occupiers.

Other Matters

16. My attention has been drawn to two appeal decisions for housing in the Bull's Green/Burnham Green area. In each, the extent to which the proposal would or would not comply with policies DPS2, VILL3 and TRA1 and the site's accessibility credentials, were main considerations. One appeal was allowed and one dismissed. There are elements of my decision which align with, but also diverge from, the conclusions of the Inspectors in those cases. However, importantly, appeal decisions are heavily dependent on the case-specific evidence and circumstances. I have come to my own views on this appeal having regard to the evidence before me now, my own experience and the particular circumstances of the case.
17. The appeal site is located within the Green Belt. Policy GBR1 of the LP, states that proposals within the Green Belt should be considered in line with the Framework. The Framework identifies that the construction of a new building in the Green Belt should be regarded as inappropriate, unless it would constitute

one of the exceptions set out in paragraph 154. One of those exceptions is limited infilling in villages.

18. The site is within a village. Although the site is presently garden land, it nevertheless constitutes a gap off Bramfield Road between the residential properties north and south of it. Siting a dwelling in the position proposed would be reflective of the generally linear settlement pattern in Bull's Green. Furthermore, 76 Bramfield Road itself is located to the site's west. Therefore, the site has existing buildings to its immediate surrounds. With just a single dwelling proposed, the amount of development to be constructed would be modest. For these reasons, the proposal would constitute limited infilling in a village. It would therefore not be inappropriate development in the Green Belt, which is compliant with GBR1 and the Framework.
19. The nearest residential properties to the site are a mix of two storey houses and bungalows some of which have accommodation within their roof spaces. These properties vary in size, scale and design but lightly-coloured render and brick building materials are common, as are feature gables and dormer windows. Reflective of this, the proposed dwelling would have accommodation across two floors, brick and render are proposed, and it would feature dormers and a pronounced front gable. The existing access drive serving No 76 would remain. This would ensure that a substantial gap would be maintained between the proposed dwelling and No 72. Given these factors, the dwelling's design, size and scale would be sympathetic to the area, and it would not appear squeezed into its plot.
20. Garden land would be built-upon. However, the new dwelling would be served by both front and rear gardens and some landscape features which contribute positively to the character and appearance of the area are proposed to be retained. Consequently, siting the development within the existing garden would not be harmful to the area.
21. The proposed dwelling would flank the blank, side elevation of the detached garage associated with No 72. The bungalow at No 72 itself is set farther back into its plot. The proposed dwelling would therefore have an angled relationship with the neighbouring bungalow. The presence of the access drive, which would serve the proposed dwelling and No 76, provides for separation between the site and No 72's plot. These factors would ensure that any effects of the proposal upon the outlook and sense of enclosure of No 72 would be limited.
22. The first floor windows proposed within the dwelling would be orientated in a south-westerly direction. They would therefore be gently angled away from No 72 which is to the site's north and north-west. This would ensure that the privacy of the occupiers of No 72 would not be unduly infringed upon.
23. As the proposed dwelling would be sited to the south side of No 72, and given its two storey nature, I expect that some reduction in light received within the plot at No 72 would be likely at times. This would also be likely to affect the light received by the solar panels, especially the nearest ones on the garage. By reason of their greater separation from the proposed dwelling, the panels on the bungalow itself, and the windows in the elevation beneath them, would likely be less affected. No 72 has an extensive garden to the west of the bungalow, and I expect that much of this would be unaffected. Therefore, the occupiers of No 72 would be the subject of some harmful light level reduction as a result of the proposal, but the extent of it would be moderated. Relevant

Policy DES4 of the LP sets out that significant detrimental impacts on the amenity of neighbouring occupiers should not arise as a result development. The proposal would comply with this policy as any harm which would arise would not be at a significant level.

24. The occupiers of No 72 express concerns with the comings and goings of vehicular movements associated with the development. However, with only a single dwelling proposed, the number of movements that would take place would be limited. The proposed parking spaces are set away from the bungalow at No 72 and would be partly screened by the existing garage. Consequently, the movements to and from the site associated with the development would not be disruptive.
25. Finally, the Council accepts that they cannot demonstrate a deliverable five-year supply of housing land as required by the Framework. The implications of this I discuss further below.

Planning Balance

26. As the Council cannot demonstrate a deliverable five-year supply of housing land, paragraph 11 d) of the Framework applies. There are no policies in the Framework that protect areas or assets of particular importance which provide a clear reason for refusing the development proposed. I must therefore consider whether the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits.
27. In my first main issue, I have identified that the proposal would not comply with the development plan's planned distribution for housing development, as established by DPS2 and VILL3. As these policies govern the spatial distribution of development, they are at the heart of the development plan, and by conflicting with them, I find that the proposal is in conflict with the development plan as a whole.
28. However, despite these findings, in my second main issue, I have also identified that the accessibility credentials of the site are acceptable within the context of a rural area. Therefore, the harm that would arise from the conflict with the aforementioned development plan policies and the siting of development at some odds with the plan's development strategy is somewhat mitigated. Therefore, I attribute a moderate amount of weight to the development plan conflict. Some further harm would result upon the living conditions of the occupiers of No 72, but this would be quite modest.
29. Given the housing land supply position, the proposal would make a modest but, nevertheless, valuable contribution in this regard. As a small site, it is likely that the development would be delivered quite quickly too. Paragraph 70 of the Framework points out that small and medium sized housing sites can make quick and important contributions to housing supply. These very circumstances would apply here.
30. Through the provision of the likes of bat, bird and invertebrate boxes and native planting, the proposal would result in some modest biodiversity enhancements. Some modest economic benefits and support to services and businesses in the area would be derived from the construction and operational phases of the development.

31. Collectively, I attribute a significant amount of weight to the benefits of the proposal. When assessed against the policies in the Framework as a whole, the adverse impacts of the development do not significantly and demonstrably outweigh the benefits of the development. Consequently, the presumption in favour of sustainable development applies.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. I have identified conflict with the development plan taken as a whole. However, the Framework is an important material consideration, and the outcome of the paragraph 11 d) balancing exercise indicates that permission should be granted. In the particular circumstances of this case, I find that the material considerations are sufficient to outweigh the conflict with the development plan.

Conditions

33. Condition 1 sets out the standard time limitation. Condition 2 is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty.
34. A condition to ensure parking provision is provided is necessary in the interests of highway safety. To promote sustainable means of travel, a cycle storage condition is required.
35. Although some details of external materials, site enclosure, cycle and bin storage are provided, they are imprecise. In the interests of the character and appearance of the area I have therefore imposed conditions in these regards.
36. Conditions requiring a scheme which ensures the protection of landscape features to be retained, defines proposed landscaping and ensures the final detail of the ecological enhancement and mitigation measures is necessary in the interests of the character of the area and the promotion of biodiversity. These conditions require agreement before the development commences as some mitigation must be in place as a pre-cursor to the construction works.
37. Policy HOU7 of the LP requires that all new homes meet the optional Building Regulations standard for accessible and adaptable dwellings. So that the proposal complies with this policy, I have imposed condition 4. This is a pre-commencement condition as matters such as site levels can be relevant, therefore, the scheme must be devised at a very early juncture.
38. Together with its supporting text, LP Policy WAT4 sets out that East Hertfordshire is an area the subject of water resource stress. So that water is used efficiently, the policy requires that residential development meets the optional Building Regulations water efficiency consumption target of 110 litres or less per head per day. I have therefore imposed condition 8.
39. Condition 13 is necessary in the interests of health and safety and condition 14 in order to protect the living conditions of local residents during the construction phase.
40. Although the site is located within the Green Belt, with residential properties nearby, the Planning Practice Guidance is very clear that the unjustified removal of freedoms to carry out domestic alterations to properties will not meet the tests for imposing conditions. In this case, it has not been shown to

me that there is a clear justification for the removal of these freedoms. I have, therefore, not imposed such a condition.

Conclusion

41. For the reasons I have set out, the proposed development would conflict with the development plan as a whole, but material considerations indicate that a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed.

H Jones

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:

P01
P03 B
P04 B
P05 B
P06 B
- 3) No development shall take place until a scheme of ecological mitigation and enhancement measures, inclusive of a timetable for implementation, has been submitted to and approved in writing by the local planning authority. The submitted scheme shall include:
 - a) the measures to be deployed to protect radiating and sheltering mammals during the construction and operational phases of the development;
 - b) details of a low-impact lighting scheme for both the construction and operational phases of the development;
 - c) the measures to be deployed to protect nesting birds; and
 - d) details of the provision of 1 bird box, 1 bat box and 1 invertebrate box.

Thereafter, the development shall be carried out in accordance with the approved details.

- 4) No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement M4(2): Category 2 – Accessible and Adaptable Dwellings. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.

- 5) No development, nor works to trees or hedgerows, shall take place until a scheme of landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include:
- a) details of all existing trees and hedgerows to be retained and the measures for their protection throughout the course of development;
 - b) details of proposed planting including the species, plant supply sizes, planting locations and plant numbers/densities. The planting shall include native species;
 - c) details of all hard surfacing materials to be provided; and
 - d) a timetable/programme for implementation of the scheme of proposed landscaping which details the trigger points for when the planting, seeding and turfing will take place and be completed and when the hard landscaping works will be provided.

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.

Agreed tree and hedgerow protection measures must be implemented before the development commences and must be retained until the completion of the development.

The development shall be carried out in accordance with the approved details.

- 6) No development involving the erection of any sections of the external walls or roof of the dwelling hereby permitted shall take place until full details or samples of the external wall and roofing materials have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 7) No development involving the insertion of any doors or windows shall take place until full details or samples of the materials and finish of all doors and windows have been submitted to and approved in writing by the local planning authority. Thereafter, the development shall be carried out in accordance with the approved details.
- 8) The dwelling hereby permitted shall not be occupied until a scheme has been submitted to and approved in writing by the local planning authority which details the measures to be included to ensure that the dwelling meets the optional Building Regulations requirement G2 – Water Efficiency consumption target of 110 litres or less per head per day. Thereafter, the development shall be carried out in accordance with the approved scheme and the measures thereafter retained.
- 9) The dwelling hereby permitted shall not be occupied until the driveway and private vehicular parking spaces proposed to serve it have been implemented in accordance with the approved plans.
- 10) The dwelling hereby permitted shall not be occupied until cycle storage has been provided to serve it in accordance with details that have first

been submitted to and approved in writing by the local planning authority.

- 11) The dwelling hereby permitted shall not be occupied until bin/recycling storage has been provided to serve it in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 12) The dwelling hereby permitted shall not be occupied until any means of enclosure have been completed in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 13) If, during the course of development, any contamination is found it shall be reported immediately to the local planning authority, work shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, remediation measures, including timescales for their implementation, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescales. Thereafter, a validation and verification report shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 14) Construction works, the related operation of plant and machinery and related site deliveries or site despatches shall only take place between the hours of 08:00 and 18:00 on Mondays to Fridays inclusive and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.