



Appeal Decision

Site visit made on 3 April 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th September 2024

Appeal Ref: APP/B1930/W/23/3327185

Plot Adj Wexhams, Lye Lane, Bricket Wood, St Albans AL3 3TB

- 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 Cowen Investments against the decision of St Albans City Council.
 - The application Ref is 5/23/0505.
 - The development proposed is erection of detached dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of detached dwelling and garage with access gates at Plot Adj Wexhams, Lye Lane, Bricket Wood, St Albans AL3 3TB in accordance with the terms of the application, Ref 5/23/0505, subject to the conditions in the attached schedule.

Preliminary Matters

2. My formal decision uses the description of development from the Council's decision notice which includes the different elements of the proposal. Whilst there is no written confirmation that a change to the wording was agreed, this description is also used by the appellant in the appeal form.
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. In any event, the policies that are material to this decision are not subject to any fundamental changes, and I am satisfied that this has not prejudiced any party.

Main Issues

4. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies and,
 - whether any 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

5. The appeal site comprises a parcel of land with several trees. It is within the Metropolitan Green Belt. Paragraph 154 of the Framework sets out that new buildings in the Green Belt are inappropriate development unless they fall within a list of exceptions. One of these exceptions at part e) is the limited infilling in villages.
6. Policy 1 of the St Albans District Local Plan Review 1994 (the LP) relates to the Metropolitan Green Belt and lists the exceptions and types of development which would be acceptable in the Green Belt. This policy does not include the other exceptions to inappropriate development detailed in the Framework. It is therefore inconsistent with the Framework and carries limited weight.
7. The reason for refusal does not refer to any specific policies within the St Stephen Parish Neighbourhood Plan 2022 (the NP). However, Policy S1 of the NP provides the spatial strategy for development and states that residential development which meets either the exceptions to inappropriate development in the Green Belt or demonstrates very special circumstances, as set out in the Framework will be supported. This policy is therefore consistent with the Framework.
8. Although the appeal site is outside of a settlement boundary, a defined village boundary in a Development Plan is not conclusive in determining whether a site is within a village or not. It is for the decision maker to decide, as a matter of fact and degree on the ground, if the site appears to be in a village. The Framework does not define a village.
9. The appeal site is some distance from the settlement boundaries of Bricket Wood and How Wood. However, Lye Lane provides a direct road link to Bricket Wood. The area immediately surrounding the appeal site is built up with other houses and buildings which are dispersed over a large area that extends right up to the settlement boundary of How Wood.
10. The pattern of development around the appeal site differs from that within the settlement boundaries of Bricket Wood and How Wood. Buildings within this part of the area where the appeal site sits typically comprise properties that are generally larger in size, set back from the road and set within large plots. There is some variation in the gaps between the buildings. Although the area does have a semi-rural feel, this stretch of Lye Lane has a village character through the visibility and close relationship of the housing.
11. Based on my observations on the ground, when approaching the appeal site from North Orbital Road, there is a clear distinction between the character and appearance which changes from rural, open land to residential built form which continues along Lye Lane.
12. I observed that the appeal site sits between a house and an access road which leads to Spielplatz which is a large complex with various single storey buildings. To the rear of the site, there is a bungalow. There are other houses with frontages on this side of Lye Lane and woodland on the other side of the road. Lye Lane connects to The Laurels where there are also other houses.
13. Whilst the examples of other nearby housing may have been built on previously developed land, these houses form part of the area. The appeal site is therefore located within a cluster of built form with other houses on either side

and to the rear, with further housing along Lye Lane and on the adjoining access roads. As such, it has a clear relationship with the more immediate built-up context.

14. Given that the appeal site is so close to other houses, it falls squarely within the village envelope created by these surrounding properties and consequently, lies squarely within the confines of a village. The appeal site would therefore be in a village for the purposes of the Framework test, following an 'on the ground' assessment.
15. The erection of one house would be limited with respect to the scale of development proposed and it would infill the gap between Wexhams and the access road. The proposal would therefore constitute limited infilling.
16. For these reasons, I conclude that the proposal would fall within the exception of limited infilling in villages set out in part e) of paragraph 154 of the Framework. Although the proposal conflicts with Policy 1 of the LP, this is of limited weight. Having regard to the Framework, the proposal would not be inappropriate development in the Green Belt. The proposal would also accord with Policy S1 of the NP, the purpose of which has been set out above.

Conditions

17. The Council has supplied a list of conditions that it considers would be appropriate. I have considered these in light of the tests within the Framework and Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve relevance, precision and enforceability, and to prevent unnecessary duplication. The parties have been invited to comment on the conditions and the comments received have been taken into account.
18. In addition to the statutory time limit condition [1], I have imposed conditions specifying the approved plans for certainty [2]. In the absence of full details of the existing ground levels and proposed slab levels, a condition requiring these details is necessary in the interests of precision to establish the finished levels and ensure the dwelling has an acceptable relationship with the other properties in the street scene [3]. It is necessary for this condition to be pre-commencement as it relates specifically to the construction phase and would be ineffective if it were required to be addressed at a later stage. The appellant has given written agreement to this pre-commencement condition.
19. Conditions requiring samples of the external materials [4] as well as details of hard and soft landscaping details [5] are necessary to ensure a satisfactory finish in the interest of visual amenity. To ensure the soft landscaping is retained once implemented, it is necessary to require plants to be replaced within the 5 years from when the landscaping is first planted.
20. In the interests of highway safety, it is necessary for conditions to be imposed which require any access gates to be set back from the highway [6], and for a visibility splay to each side of the access to be provided [7].
21. The Council has suggested a condition removing permitted development rights under Classes A, AA, B, C and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ('GPDO'). As set out in the PPG and the Framework, planning conditions should not be used to restrict national permitted development rights unless there is

clear justification to do so. Bearing in mind the limitations of the GPDO in terms of size and position of development permitted, I am not persuaded that the site circumstances are such, to justify the removal of these permitted development rights to safeguard the openness of the Green Belt. The conditions of permitted development provide some restrictions to protect neighbour residential amenity.

22. The Council also suggested that a condition be imposed to require a progress report to be provided from 12 months from the date of permission being granted. As this condition is not reasonable, I have not imposed it.

Conclusion

23. For the reasons given above the appeal should be allowed.

L Reid

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, 23/1367/01 A, 23/1367/02, 23/1367/03, 23/1367/04A, 23/1367/05.
3. The development hereby permitted shall not be commenced until drawings showing existing ground levels and proposed slab levels, including the finished relationship with the adjacent buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
4. Prior to the commencement of works above ground, samples of the external materials to be used in the construction of the development hereby permitted shall be approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details
5. Prior to the commencement of works above ground, a detailed hard and soft landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) Details of boundary treatments;
 - b) Details of vehicular access, car parking, and circulation areas;
 - c) Details of hard surfacing materials;
 - d) Details of existing trees and hedgerows to be retained;

e) Details of all proposed planting to include written specifications (including cultivation and other operations for plant and grass establishment); and

f) An implementation strategy for all planting.

The approved hard and soft landscaping scheme shall be implemented in its entirety in the first planting season following the occupation of the dwelling or the completion of the development, whichever is sooner. Any new or retained plants which, within a period of 5 years from the implementation of the landscaping scheme die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

6. Any access gate(s) shall be installed to open inwards, set back at a minimum distance of 6m from the edge of the highway throughout the lifetime of the development.

7. Prior to first occupation of the development hereby permitted, visibility splay measuring 43 x 43m shall be provided to each side of the access where it meets the highway, and such splays shall thereafter be retained throughout the lifetime of the development free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway

END OF SCHEDULE