



Appeal Decision

Site visit made on 5 August 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th September 2024

Appeal Ref: APP/J1915/W/23/3334643

Land opposite 44-58 Chapel Lane, Letty Green, Hertford SG14 2PA

- 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 Ms Vivienne Naylor against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0958/FUL.
 - The development proposed is construction of a new house, garage and driveway with new landscape planting.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the application was determined the National Planning Policy Framework (the Framework) has been revised. Both the main parties have had the opportunity to comment during the appeal process.
3. As part of this appeal, the Council has provided evidence¹ it can now demonstrate a 5-year supply of housing land. This has not been contested by the appellant and I have proceeded on this basis.
4. An updated Ecological Impact Assessment (EIA) dated November 2023 has been submitted as part of the appeal. The Council has reviewed and commented on the document, and so I have had regard to it in reaching my decision.

Background and Main Issues

5. There is no dispute between the main parties that the appeal scheme would result in limited infilling inside the village. Therefore, it is not necessary to consider the effect of the proposed development on Green Belt openness or the demonstration of very special circumstances. On the evidence before me, including the decisions² by the previous Inspectors (the previous schemes), I have little reason to disagree with the main parties on this matter.
6. Therefore, the main issues of this appeal are the effect of the development on:
 - the character and appearance of the area; and
 - protected species and biodiversity.

¹ East Herts Five Year Land Supply Position Statement dated March 2024

² Appeal refs: APP/J1915/W/18/3207743 and APP/J1915/W/20/3247686

Reasons

Character and appearance

7. The appeal site is an elongated irregular shaped parcel of land located between Chapel Lane and Cole Green Way. A short narrow public footpath runs between the site and the new property allowed on appeal³ (No 27). The site at the time of my visit was covered with vegetation, with trees, hedging and some fencing to the boundaries of the site. Within the appeal site was a modestly sized stable building and small shed with most of the site undeveloped.
8. Opposite the appeal site are detached dwellings located in well-sized plots, set back from the road, with generous front and rear gardens. These nearby dwellings are positioned in an orderly arrangement fronting the road. This arrangement gives a distinct sense of spaciousness and ordered pattern of development on this section of Chapel Lane closest the appeal site.
9. The size, position and layout of the surrounding dwellings results in a notable rhythm of development, which contributes positively to the character and appearance of the surrounding area. As identified by the previous inspectors' decisions and matching my observations properties along Chapel Lane towards the junction with Letty Green comprise of single-storey, 1.5 storey and two-storey dwellings of varying designs.
10. East Herts District Plan (DP) Policy VILL3, amongst other things, seeks development to be well designed and in keeping with the character of the village it is located. The appeal site is located close to No 27, a contemporary-designed dwelling. Subject to its overall design and location being acceptable, a further contemporary-designed dwelling would not be an alien addition to this part of the village.
11. I acknowledge that the appellant has sought to address the concerns of the Inspectors on the previous irritations. In doing so the evidence before me indicates that the proposed dwelling is now located in a narrower section of the site than the previous schemes.
12. The positioning of the dwelling in this location would be at odds with the more spacious plots with dwellings set back from the road in the immediate vicinity. The proposal would therefore appear as a cramped development within a constrained narrow plot, thereby harmfully diminishing the spaciousness and character of the area.
13. Moreover, the large expanse of flat roof would be visible along parts of Chapel Lane and more so from Cole Green Way, given the changes in topography. As a result, the appeal scheme would be distinctly at odds with the prevailing character of neighbouring dwellings particularly with regards to its massing and low-level flat roof form.
14. I acknowledge the appellant's comments that flat roof features on the appeal site for the previous schemes and at the development at No 27 have not drawn significant concerns from Inspectors. However, the scheme at No 27 was found to be harmful to the character and appearance of the area. Additionally, the two previous design iterations on the site are materially different to the current

³ Appeal ref: APP/J1915/W/17/3174337

proposal and therefore I cannot draw any direct comparisons that weigh in favour of the proposal.

15. With the exception of views to the east, windows would be constrained given the short boundary separation distances and the height and location of existing and proposed boundary treatments. As a result, future occupiers may seek to remove this vegetation to reduce the sense of being enclosed opening up external space around the property. In this instance, I do not consider that the proposed landscaping scheme would provide sufficient mitigation against the identified harm, nor do I consider that a suitably worded condition could be imposed to ensure that otherwise unacceptable development could be made acceptable.
16. Additionally, having seen the appeal site from a number of viewpoints, there is nothing before me to suggest that the landscaping scheme proposed would greatly improve the character of Chapel Lane.
17. For the above reasons, the proposed development would be harmful to the character and appearance of the appeal site and surrounding area. It would therefore conflict with DP Policies VILL3 and DES4. These require amongst other things, a high standard of design and layout to reflect and promote local distinctiveness and be in keeping with the village it is located in. It would also conflict with the Framework in so far as it seeks development to be sympathetic to local character.

Protected species and biodiversity

18. Bats, all of which are protected species under the Wildlife and Countryside Act and the Conservation of Habitats and Species Regulations, as amended. The updated EIA identifies building one as having a low value for roosting bats. The updated EIA does note that butterfly wings found on the southwestern side of the stables could indicate feeding behaviour from bats or birds. However, no full internal assessment has been undertaken within building one so evidence of bats using the building may not have been seen.
19. The appeal scheme would see the demolition of building one. No clear evidence is available before me to satisfactorily conclude that the appeal scheme would not result in the destruction of bat roosts or cause disturbance, injury, or death to any bats. This is particularly notable as potential evidence of feeding bats in proximity to building one has been indicated. As a result, it is not possible for me to conclude that harm to protected species would be avoided. This is a matter which requires certainty for the decision-taker that the proposal can avoid harm which is currently not clear.
20. The updated EIA identifies the existing habitats present on site, which include the existence of neutral grassland, scattered trees, bramble scrub and mature trees. This is not disputed by the Council.
21. Notwithstanding the narrow and irregular shape of the appeal site, the built form-to-plot ratio is limited in terms of the overall site area. Based on the proposed plans submitted, there appears to be more than sufficient space remaining to accommodate planting, hedgerows, and other methods that could be employed to secure biodiversity net gain. A condition could be imposed that would enable the required biodiversity net gain as sought by DP Policies NE2 and NE3.

22. However, in light of the above, I cannot be certain that there would not be harm to protected species. As a result, it would fail to accord with DP Policy NE3, which seeks to ensure that proposals have no adverse impact on protected species. The proposal would also fail to accord with the Framework insofar as it seeks to protect biodiversity.

Other Matters

23. As noted by the appellant, the land is currently unoccupied. However, no substantive evidence has been put forward that there is no demand for a stable and paddock in the surrounding area. As such, I am unconvinced that the appeal site is in need of a new use.
24. As established above, the Council can now demonstrate a sufficient supply of housing land. As such, paragraph 11.d) ii. of the Framework is not engaged. Nonetheless, there would be benefits from the contribution of one modern, sustainably built dwelling. This would be on a windfall site that could be occupied by a wide variety of people and be adaptable to the changing needs of future occupants.
25. There would also be social and economic benefits, including for the village, arising from the construction and occupation of the dwelling. Environmental benefits would also arise from BNG, as well as improving the health of trees onsite. However, given the scale of the scheme, these benefits even when combined, would not outweigh the harm I have identified.

Conclusion

26. The proposal would provide a biodiversity net gain on-site. However, this would not outweigh the harm to the character and appearance of the area or the potential harm to protected species, namely bats. As such, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, the appeal is dismissed.

A Hickey

INSPECTOR