



Appeal Decision

Site visit made on 13 November 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2024

Appeal Ref: APP/J1915/W/24/3340841

Stables and land adjoining Thundridge House, Poles Lane, Thundridge, Ware, Hertfordshire SG12 0SQ

- 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 Norman Sheldrake against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0981/FUL.
 - The development proposed is the change of use from stables and paddock and construction of 1 new, 2 storey house, triple garage, landscape, parking with amended access.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Norman Sheldrake against East Hertfordshire District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The appeal site is the subject of a previous appeal decision¹, which was dismissed in 2012. This appeal also sought planning permission for a single detached dwelling with a garden and detached garage. I will return to this later in my decision.
4. The appeal is accompanied by a Sustainability, Energy and Water Report, an updated Tree Survey & Arboricultural Assessment and Biodiversity Net Gain evidence. It is also supported by a series of amended plans, which include some minor changes to the design of the proposed dwelling.
5. Although the additional reports and plans have not been subject to formal public consultation, the Council were given an opportunity to comment on them as part of this appeal. In light of this, and given my findings below, I am satisfied that no party would be prejudiced by my acceptance of the information. Therefore, having regard to the principles of *Holborn*², acceptance of the further information would not be procedurally unfair and as a result I have considered it in determining this appeal.

¹ Appeal Ref: APP/J1915/A/12/2177766

² *Holborn Studios Ltd v Hackney LBC* [2017] EWHC 2823 Admin

Main Issues

6. The main issues of the appeal are:

- whether or not the proposal would be inappropriate development in the Green Belt, for the purposes of the Framework and any relevant development plan policies, including the effect upon the openness of the Green Belt;
- whether the proposal would demonstrate high standards in sustainable design and construction;
- the effect of the proposed development on protected species;
- whether the proposed development would deliver biodiversity net gain;
- the effect of the proposed development on existing landscape features and trees;
- if the development is inappropriate, whether harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development in the Green Belt

7. The appeal site sits within a generous plot to the north of Poles Lane. The site currently contains a small, single storey stable building and is enclosed by mature trees, hedgerows and fencing. There is a cluster of residential properties on this side of the lane and close to the junction with Cambridge Road. However, the appeal site is largely surrounded by open land and countryside which includes golf courses and grounds associated with the nearby Hanbury Manor Hotel. There are some residential properties located further along Poles Lane. However, the development pattern becomes more sporadic as you travel away from Cambridge Road. The site is located within the Green Belt.
8. Paragraph 142 of the National Planning Policy Framework (the Framework) states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Paragraph 152 of the Framework states that inappropriate development, is by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
9. Paragraph 154 of the Framework states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, unless one of the listed exceptions applies. These include Paragraph 154(e) which relates to limited infilling in villages and Paragraph 154(g) which relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use

previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

10. Policy GBR1 of the East Herts District Plan, adopted October 2018 (the EHDP) states that planning applications within the Green Belt, as defined on the Policies Map, will be considered in line with the provisions of the National Planning Policy Framework.
11. Policy DPS2 of the EHDP sets out the approach to development and the settlement hierarchy, and Policy VILL2 identifies Thundridge and Wadesmill as a Group 2 Village. The extent of the village is shown on the accompanying Policies Map, and the appeal site is located beyond the defined settlement boundary. However, although a settlement boundary, as defined in the Local Plan, may be a relevant consideration, it would not necessarily be determinative as to whether a site is located within a village for the purposes of Paragraph 154(e) of the Framework. In this respect, a decision as to whether or not a site is within a village is a matter of planning judgement taking the site's context into account.
12. The main part of the village of Thundridge lies some distance to the northeast of the appeal site along Cambridge Road. Therefore, whilst I acknowledge that the appeal site is located within a ribbon of development, which, in some cases, has a frontage onto Poles Lane, the character and appearance of the appeal site is such that it represents a clear transition between the dense, more built-up pattern of development which is found within the village of Thundridge and the more rural character evident as you travel along Poles Lane. Accordingly, the character of the appeal site and its surrounding area is distinctly different to that which exists within the village of Thundridge. For these reasons, I find that the appeal site is not within the village of Thundridge.
13. In respect of whether the proposal would constitute limited infilling, there is no formal definition of what constitutes limited infilling within the Framework, and the Council do not provide a definition in the development plan. It is therefore a matter of fact and planning judgement for the decision maker. It is reasonable to consider that limited infilling would be the infilling of a modest gap in an otherwise continuous built-up frontage. With this in mind, I have had regard to the nature and size of the development proposed, the location of the appeal site and its relationship to existing adjoining development.
14. It is not disputed that there are residential properties to either side of the appeal site. However, Thundridge House is set back a considerable distance from Poles Lane, and to the other side of the appeal site is a small cluster of properties, which are distanced from the site by a field access and their gardens. Furthermore, the appeal site forms a substantial gap and there is no built development immediately opposite the appeal site. For these reasons, by virtue of the orientation, siting and rural nature of the development found in this part of Poles Lane, the presence of development on either side of the appeal site does not lead me to conclude that this part of Poles Lane comprises a built-up frontage.
15. Therefore, whilst I accept that the proposed development would follow a similar development pattern to other properties in this location, taking the above matters together, even if I had concluded that the appeal site was within a village, I find that the proposed development would not constitute

limited infilling in that it would not infill a modest gap within a continuous built frontage.

16. Turning to Paragraph 154(g) of the Framework which permits limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development, or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
17. The proposed development is for a substantial market dwelling; therefore, the second part of this exception does not apply. However, it is not disputed that the appeal site is previously developed land and therefore it falls to consider whether the proposed development would have a greater impact on openness than the existing development.
18. In this particular case, the proposal is for a substantial house, with a detached triple garage. The proposed development would replace a modest single-storey stable building, which is situated at the front of the site and due to existing trees and hedges is barely visible within the rural landscape. By contrast, the proposed development would introduce a substantial building, which would by virtue of its siting result in the encroachment of development into the open countryside, which is contrary to the aims of the framework. The proposed development would lead to an unacceptable reduction, both spatially and visually to the openness of the Green Belt. For these reasons, the proposal would have a moderately harmful effect on the openness of the Green Belt.
19. Whilst the appellant disputes the findings of the previous appeal decision, I have not been presented with any substantive evidence to contradict the findings of the previous Inspector. Nevertheless, as this was determined in 2012 and under a different local plan, I can only afford it very limited weight. Nonetheless, it does not alter my above findings.
20. My attention has been drawn to two appeal decisions within different local authority areas. The first in Basildon³ relates to a much larger scheme for 43 dwellings, and as such it is not considered comparable to the appeal proposal. The second decision relates to a scheme in Milton Keynes⁴ for 14 dwellings, which again is of a much larger scale than the appeal proposal and as such is also not comparable to the appeal proposal. These appeal decisions also relate to different locations, planning policy context and circumstances. I therefore attach very little weight to their findings.
21. For the reasons stated above, I conclude that the proposal would not represent limited infilling in a village, nor would it comprise the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development. It would comprise inappropriate development in the Green Belt that would, by definition, be harmful to the Green Belt. Thus, it

³ Appeal Ref: APP/V1505/W/22/3296116

⁴ Appeal Ref: APP/Y0435/W/17/3178790

would be contrary to the Framework and Policy GBR1 of the EHDP which, amongst other things, requires that planning applications within the Green Belt are considered in line with the provisions of the Framework.

Sustainable Design

22. Policy DES4(I)(d) of the EHDP states that all development proposals will be expected to incorporate high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient, design and sustainable construction methods.
23. Policies CC1 and CC2 of the EHDP also require all new development to demonstrate how the design, materials, construction and operation of the development would minimise overheating in summer and reduce the need for heating in winter and demonstrate how carbon dioxide emissions will be minimised across the development site, taking account of all levels of the energy hierarchy. Policy CC2 of the EHDP further states that achieving standards above and beyond the requirements of Building Regulations is encouraged and that Carbon reduction should be met on-site unless it can be demonstrated that this is not feasible or viable.
24. Policy WAT4 of the EHDP relates to the efficient use of water resources. This policy outlines that development must minimise the use of mains water by incorporating water saving measures and equipment.
25. The Sustainability, Energy and Water Report⁵ submitted with this appeal indicates that a fabric first approach to design has been taken, and the proposal will incorporate renewable energy technologies including an air source heat pump, ground source heat pump and solar panels. However, whilst the report is supported by quotations, these aspects of the proposed development are not shown on the originally submitted plans, nor the amended plans submitted with the appeal. As these measures are likely to affect the overall design and appearance of the proposed dwelling, it would not be appropriate to require further details to be submitted through the imposition of planning conditions.
26. For these reasons, I find that it has not been demonstrated that the proposed development would deliver sustainable design that would be adaptable to climate change. Thus, it would be contrary to Policies DES4, CC1, CC2 and WAT4 of the EHDP. These policies require, amongst other things, that new development incorporates high quality innovative design, new technologies and construction techniques, including zero or low carbon energy and water efficient, design and sustainable construction methods.

Protected Species

27. Policy NE1 of the EDHP states that evidence will be required in the form of up-to-date ecological surveys undertaken by a competent ecologist prior to the submission of an application. The type of evidence required will be commensurate to the scale and location of the development and the likely impact on biodiversity, the legal protection or other status of a site. Where insufficient data is provided, permission will be refused.

⁵ Detailed Sustainable Construction, Energy and Water Statement prepared by AAD Architects (dated 13 March 2024)

28. Policy NE3 of the EDHP states that development should always seek to enhance biodiversity and to create opportunities for wildlife. Proposals must demonstrate how the development improves the biodiversity value of the site and surrounding environment. Evidence will be required in the form of up-to-date ecological surveys undertaken by a competent ecologist prior to the submission of an application.
29. The Ecological Appraisal relies upon information collected during a site visit which took place in June 2021, as such it is out-of-date. The report concluded that the proposed development has the potential to impact foraging and roosting bats and recommended that further survey work is undertaken. However, based on the evidence before me, no further surveys or inspections have been carried out.
30. The Conservation of Habitats and Species Regulations 2017 imposes a duty to consider whether there is a reasonable likelihood of European Protected Species (EPS) being present and affected by the proposal. Bats are listed as an EPS under these regulations.
31. Natural England's (NE) standing advice indicates that survey work should be undertaken if a development proposal is likely to negatively affect bats or their roost, foraging or commuting habitats. Circular 06/20056 also states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development is established before planning permission is granted. The Circular states that the need to ensure ecological surveys are carried out should only be left to coverage under planning conditions in exceptional circumstances. I am not convinced that any such circumstances exist in this case.
32. Therefore, I find that insufficient information has been provided to demonstrate that the proposed development would not have an unacceptable adverse effect on protected species. Furthermore, if protected species were affected, I cannot be certain as to what mitigation, if appropriate, may be required. Thus, the proposed development would be contrary to Policies NE1 and NE3 of the EHDP which require, amongst other things, up-to-date ecological surveys to be submitted and requires that proposals seek to enhance biodiversity and to create opportunities for wildlife.

Biodiversity Net Gain

33. The application pre-dates the introduction of a statutory requirement for biodiversity net gain on small sites. However, Policy NE2 of the EDP states that all proposals should achieve a net gain in biodiversity where it is feasible and proportionate to do so, as measured by using and taking into account a locally approved Biodiversity Metric, and avoid harm to, or the loss of features that contribute to the local and wider ecological network.
34. The Biodiversity Net Gain⁶ report submitted with the appeal sets out that the proposed development scheme would achieve biodiversity net gain of greater than 10% in respect of both habitat units and hedgerow units.
35. The report also concludes that Trading Rules have not be satisfied with insufficient trees planted within the area of grassland within the retained field. However, the report goes on to state that the trading rules can be satisfied

⁶ Biodiversity Net Gain Report – Issued by Wychwood Environmental Ltd (Dated March 2024)

through the planting of seven small native trees within the grassland at a distance to each other so that they form a continuous canopy as they mature.

36. Policy NE2 does not specify an amount of biodiversity net gain that is expected to be achieved, nor does it specify that it requires trading rules to be satisfied. Furthermore, the Council has provided little evidence to show that biodiversity net gain could not be achieved on the site or that this matter could not be dealt with by way of a condition.
37. On this basis, subject to the imposition of an appropriate pre-commencement condition, I am satisfied that the proposed development could deliver biodiversity net gain and thus it would comply with Policy NE2 of the EHDP.

Landscaping & Tree Protection Measures

38. Policy DES3 of the EHDP states that (I) development proposals must demonstrate how they will retain, protect and enhance existing landscape features which are of amenity and/or biodiversity value, in order to ensure that there is no net loss of such features, and (II) where losses are unavoidable and justified by other material considerations, compensatory planting or habitat creation will be sought either within or outside the development site. It further states that replacement planting schemes should comprise mature, native species appropriate to the local conditions and landscape character, supported by a monitoring and replacement programme.
39. As noted above, the appeal site is surrounded by mature vegetation and trees. A Tree Survey was submitted with the planning application, which was dated 29 January 2021 and therefore by the time the application was determined deemed to be out-of-date. This led the Council to conclude that there was insufficient information to fully assess the effects of the proposed development on trees with and adjoining the site.
40. An amended Tree Survey and Arboricultural Report⁷ has been submitted with this appeal. This confirms the removal of a Cypress Hedgerow (H1005) and sets out the proposals for additional tree and hedgerow planting. It also sets out measures for the protection of retained trees and hedgerows. On this basis, subject to the imposition of suitably worded planning conditions relating to the landscape proposals and tree protection measures, the proposed development would not result in any adverse effects on trees within or adjoining the site.
41. For these reasons, I am satisfied that the proposed development will retain, protect and enhance existing landscape features, and where losses will occur, these will be offset by the creation of additional planting within the wider proposals. Thus, the proposal would comply with Policy DES3 of the Local Plan, which aims amongst other things, to ensure proposals protect existing landscaping features.

Other Considerations

42. The Framework seeks to significantly boost the supply of housing and recognises that small sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly.

⁷ BS5837:2012: Tree Survey, Tree Constraints Plan and Arboricultural Implications Assessment prepared by Wilson Tree Surveys (dated 13 March 2024)

However, in providing for one additional dwelling, the proposal would only make a small contribution towards housing supply, and therefore I can only attribute this moderate weight.

43. Whilst the appellant states that the proposed development would be for self-build or custom build housing, there is no substantive evidence to support this. Furthermore, I have not been presented with any mechanism by which to secure this. As such, I attribute this very little weight.
44. The Council found that the proposed development would be acceptable in terms of its effect on the living conditions of neighbours, highway safety, noise, waste, contamination, lighting and air quality. The Council also found that the design of the proposed dwelling to be acceptable. However, these are neutral matters which neither weigh for or against the proposal.

Green Belt Balance

45. The Framework sets out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight must be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
46. In this case, I have found harm to the Green Belt by reason of the proposed development's inappropriateness, and harm to the openness of the Green Belt.
47. Balanced against that are the other considerations discussed above. However, for the reasons given, I find that the other considerations in this case, taken cumulatively, do not clearly outweigh the totality of the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist and the proposed development would be contrary to the Framework and Policy GBR1 of the EHDP which seek to protect the Green Belt.

Other Matters

48. The proposed development would involve the loss of an equestrian facility. Policy CFLR6 of the EHDP states that proposals that result in the loss of equestrian facilities should be accompanied by an Equestrian Needs Assessment which demonstrates that the facilities are no longer needed. The Equestrian Needs Assessment sets out that the use of the site ceased in around 2013 and the stables are redundant. On this basis, the Council found that the loss of the equestrian facility would accord with Policy CLFR6. Based on the evidence before me I see no reason to disagree.
49. Thundridge House and adjoining Stable Block is a Grade II Listed Building⁸. The listing description notes that the house was built in 1855, with later additions. It was formerly a vicarage but now a private dwelling. It is described in the listing description as being a balanced asymmetrical Tudor style 2-storeys house with 2 barge boarded gables of different size on front with Tudor arched door to left and main entrance porch, with stone gable coping and finial, set diagonally in the re-entrant angle on the right where a set-back range was extended in matching style.

⁸ List Entry Number: 1077954

50. The Garden Wall at Thundridge House is also a Grade II listed building⁹. The listing description describes this as a sub-rectangular walled garden between house and road, enclosed on 4 sides by shoulder height wall with triangular buttresses at intervals, and square gate piers in middle of side nearest house. Of special interest for the exclusive use of several different types of the large bricks patented by Caleb Hitch of Ware in 1828, roughly 12" x 6" x 6", each brick having flanges and cavities interlocking to economise in mortar and increase structural strength.
51. The statutory duty contained within section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving listed buildings, their settings and any features of special architectural or historic interest which they possess. The Council concluded that the proposed development, by virtue of its distance and heavy vegetation, would not cause harm to the significance or setting of the listed buildings. Based on the evidence before me and my own observations, I see no reason to disagree with this conclusion.

Conclusion

52. For the reasons given, the proposal would therefore not accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. Therefore, the appeal is dismissed.

K Lancaster

INSPECTOR

⁹ List Entry Number: 1077955