

Appeal Decision

Site visit made on 15 October 2024

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 30th January 2025

Appeal Ref: APP/J1915/W/24/3338529

North Banks, Standon Road, Little Hadham, Hertfordshire SG11 2DE

- 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 and Mrs Cowler against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/1994/FUL.
 - The development proposed is the erection of 3no dwellings with associated landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. Following the determination of the application by the Council, the National Planning Policy Framework (Framework) was updated in December 2024. The main parties have had an opportunity to comment on any changes arising from this update during the appeal process.
4. Whilst I understand the site falls within the area to be covered by the Little Hadham Neighbourhood Plan, it should be noted this has not been formally made and therefore it carries limited weight for the purposes of my assessment.
5. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development also includes the demolition of existing outbuildings, the erection of detached garages, and the widening of the vehicle entrance. The parties' cases consider the proposal on this basis and so shall I.
6. In their final statement, the appellant references an additional plan illustrating how a potential pedestrian footway could be used to connect the appeal site to the existing footpath network. A proposed condition has been suggested to support this. However, the appeal process should not be used

to evolve a scheme¹. The Holborn Studios² case sets out two tests to determine whether proposed amendments should be considered. Regarding the substantive test, the alteration of the plan would result in a fundamental change regarding accessibility and would require works within or alongside the highway. Regarding the procedural test, there is a significant risk that the proposed amendment would cause unlawful procedural unfairness to consultees and third parties involved in the appeal, as it would deprive them of the opportunity to make representations on the changes proposed. In particular, the Highway Authority have not been given the opportunity to comment. As the correspondence appears to have been limited to the parties involved, it is unclear whether consultees and third parties have been made adequately conscious of this proposal. Therefore, this proposed alteration to the proposals has not been taken into account.

Main Issues

7. The main issues are:

- the effect of the proposed development upon the character and appearance of the site and its surroundings; and
- whether the appeal site is a suitable location for the proposed development, having regard to local policy for the delivery of housing.

Reasons

Character and Appearance

8. The appeal site includes an outbuilding, but is otherwise located within an open, predominantly undeveloped section of land that exists within the wider grounds of the dwelling known as North Banks. It is well contained by established vegetation on all sides and is situated in an area which is mainly characterised by its open and largely undeveloped nature.
9. The modest size of the existing dwelling at North Banks and the minimal amount of built form in its immediate vicinity is reflective of its position in the countryside set away from Little Hadham's village boundary. This clear division means the site is not experienced as part of the village's built context. As such, the verdancy and prevailing undeveloped appearance of the appeal site ensures that it sits comfortably amongst the adjacent fields and overriding natural characteristics of the rural area.
10. The proposal would alter the rural character of the site by introducing three dwellings, along with enclosed outdoor amenity spaces, garages, hardstanding with the potential that there would also be an increase in associated domestic paraphernalia within the individual plots. I understand that the architectural style of the proposed dwellings has drawn influence from other dwellings in the wider locality. Even so, the density and the scale of the proposed development would be at odds with the established pattern and grain of the site's immediate rural surroundings.

¹ Section 16: Procedural Guide: Planning appeals – England; The Planning Inspectorate

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

11. The site is bordered by mature trees, hedges, and fencing which together with the proposed hedgerow planting, would help to filter views of the appeal site. However, even accounting for some of the vegetation being evergreen, the buildings would still be appreciable through gaps in the vegetation. Most particularly, and as depicted in the appellant's 'CGI of proposed view of access', the widened shared access point would open up clearer views into the site. This would reveal the significant increase in domestic built form, which would appear as an intensive and incongruous development in the context of the immediate rural surroundings to passers-by. Overall, the proposal would unacceptably erode the natural appearance of the site and the rurality of this section of Standon Road.
12. Given the appeal site's association with North Banks and that it is partly occupied by an outbuilding, there is some merit to the appellant's suggestion that it constitutes previously developed land. Even so, the glossary at Annex 2 of the Framework confirms that it should not be assumed that the whole of the curtilage should be developed. For the reasons described, the significant increase in built form in this instance would be harmful to the character and appearance of the immediate surroundings.
13. The appellant has referred to the use of permitted development rights to extend the existing dwelling by adding another storey. There is no information before me that contradicts the appellant's case that this option could be pursued. Even so, in character and appearance terms, this is not similar to three dwellings and the extensive developed footprint of the proposal before me. As such, it does not represent a comparable fallback position.
14. In conclusion, the proposed development would significantly harm the character and appearance of the site and its surroundings. It would not reflect and promote local distinctiveness in terms of scale and density, which is contrary to Policy DES4 of the LP³. It would also not be compatible with the character and appearance of the rural area, contrary to Policy GBR2 of the LP.

Suitable Location

15. The appellant has acknowledged that the appeal site sits outside of the village boundary for Little Hadham. Indeed, from my own observations on the ground, it sits away from the consolidated built form of the village, with an intervening field. There is no dispute that it is in the 'Rural Area beyond the Green Belt' for the purposes of applying the policies of the LP.
16. Policy DPS2 of the LP sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. A list of 'Sustainable Brownfield Sites' is detailed in Policy DPS3 (Housing Supply 2011 – 2033) of the LP. This does not include sites in the 'Rural Area beyond the Green Belt', although I accept it is not necessarily an exhaustive list.

³ East Herts District Plan 2018

17. However, Policy GBR2 of the LP seeks to maintain the 'Rural Area Beyond the Green Belt' as a valued countryside resource and confirms the types of development that will be permitted, provided that they are compatible with the character and appearance of the rural area. Criteria (e) of this policy relates to limited infilling or the partial or complete redevelopment of previously developed sites in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.
18. Limited infilling is most commonly understood to relate to development of a small gap within a built-up frontage, which is evidently not the case for the appeal site. In any case, even if I consider that the appeal site complied with criteria (e) in terms of being previously developed land, my conclusions under the first main issue confirm that it would not be appropriate in terms of the character, appearance and setting requirements and so criteria (e) is not met. Accordingly, there is clear conflict with Policy GBR2.
19. Furthermore, Policy TRA1 of the LP, requires development proposals to ensure that a range of sustainable transport options are available. From an accessibility perspective, the nearest village, Little Hadham, does offer a limited level of services and facilities, including a bus service. However, accessing these services requires traveling along Standon Road, which is unlit and lacks a dedicated pedestrian footway for a significant portion of its length. This means that pedestrians would have to walk on the carriageway or along narrow sections of grass verge. With no streetlighting, this would not be either safe nor convenient for future occupants either on foot or by bicycle, particularly at night or during times of inclement weather.
20. While the appellant has referenced several documents⁴ offering general guidance on acceptable walking distances, there is no evidence to suggest these standards apply in the absence of a dedicated footway. As such, in the absence of sustainable transport options to key services, future occupants would likely be reliant on a private motor vehicle to access services and facilities to meet their day-to-day needs resulting in an increase in journeys from the site for daily necessities. The appellant's proposal to widen the existing access point at the appeal site does not alter this finding.
21. The appellant has referred to several planning decisions⁵ in the district, including planning appeal decisions and applications determined by the Council. However, there are material differences between the appeal and these decisions.
22. At Fryars Farm, the proposal was found to meet criterion (d) of Policy GBR2. This relates to the replacement, extension or alteration of a building, rather than the construction of wholly new dwellings. Additionally, the Inspector considered that the works would be appropriate to the character, appearance and setting of the site, which is not the case in this appeal.
23. The Aldbury Lime Kiln appeal was assessed under a previous development plan and, therefore, holds limited relevance to the LP. Notably, both this and

⁴ Framework, Manual for Streets, How far do people walk (July 2015)

⁵ APP/J1915/W/22/3313115 (Fryars Farm), APP/J1915/W/16/3147738 (Aldbury Lime Kiln), APP/J1915/W/20/3258799 (Spring Paddocks), 3/16/2015/FUL (Ashcroft Farm), APP/J1915/W/19/3226396 (Hare Street), and 3/17/1399/FUL

the Spring Paddocks appeal were deemed acceptable in terms of character. Additionally, both provided suitable walking routes. For the site-specific reasons set out, safe and convenient routes from the appeal site to Little Hadham are not available.

24. At Hare Street, the appeal site was situated close to the village boundary and was accessible via a well-maintained footpath. Additionally, that proposal complied with criteria (e) of Policy GBR2.
25. The appellant has also referred to decision 3/17/1399/FUL, however, there is very limited evidence before me regarding this case to indicate that it involved very similar considerations to the site-specific issues and conflict with the development plan policies at North Banks.
26. In conclusion, the appeal site is not a suitable location for the proposed development. More particularly, my findings in respect of accessibility and character and appearance indicate that the appeal site is not in a sustainable location and does not constitute a 'Sustainable Brownfield Site' for the purposes of applying Policies DPS2, GBR2 and TRA1 of the LP.

Other Considerations

27. No letters of objection from members of the public were submitted regarding the planning application. However, the absence of formal objections does not equate to support, nor does it justify the adverse impacts I have identified above.
28. The appellant has suggested a planning condition to ensure that the proposed development shall not be constructed other than as self-build or custom build dwellings as defined under the Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016). That Act states that 'self-build and custom housebuilding' means the building or completion by individuals, associations of individuals, or persons working with or for individuals or associations of individuals of houses to be occupied as homes by those individuals. It does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.
29. Given that the appellant intends to deliver the proposed dwellings themselves, it is likely that they would not be occupied by individuals who have been involved with the housebuilding process. Furthermore, the proposal is for full planning permission for dwellings already designed to the appellant's plans and specifications. There is no evidence before me that a future occupier has been involved in this process. As such, the proposed development does not meet the relevant definition. Therefore, the appellant's suggested condition would not be relevant to the development to be permitted, insofar as it would not be capable of securing the provision of self-build and custom housebuilding. As such, this is not a matter which carries weight in favour of the proposal.
30. The proposal would make a small but important contribution towards the Government's objective of significantly boosting the supply of homes. Additionally, the appellants intend to collaborate with Small and Medium Enterprise housebuilders, potentially enabling a relatively quick build out.

The appellant also contends that the proposal would provide for a high quality, energy sustainable form and would result in biodiversity net gains. There would also be economic benefits through its construction and future support for local services and facilities by occupiers of the development. However, in the context of a proposal for three dwellings, these benefits would be limited.

Planning Balance

31. The appeal proposal would not be in a suitable location having regard to the development strategy and the requirements for previously developed land in the rural area, and this includes but is not limited to the significant harm that would result to the character and appearance of the area. In these respects, there would be conflict with the development plan as a whole.
32. An appeal decision⁶ in August 2024 concluded that the Council could not demonstrate a five-year supply of deliverable housing sites and that it had a 4.20 – 4.49 housing land supply. The appellant has provided their own calculation and suggests that the current supply is lower still at 3.54 years. In any event, the Council has acknowledged that it cannot demonstrate a five-year housing land supply. In the absence of a demonstrable five-year housing land supply paragraph 11 d) of the Framework applies. Permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
33. Applying the appellant's calculation of 3.54 years housing land supply as a worst-case scenario, as described above the benefits associated with three new dwellings would be limited. However, having regard to the policies of the Framework taken as a whole and the need to consider any adverse impacts, the proposal conflicts with its key policies which seek to ensure well-designed places and direct development to sustainable locations. More particularly, the Framework states that the planning system should actively manage patterns of growth, limit the need to travel and offer a genuine choice of transport modes, should be sympathetic to local character, and should recognise the intrinsic character and beauty of the countryside. In addition, the appeal site is not located within a settlement and so is not suitable brownfield development for the purposes of applying paragraph 125 of the Framework.
34. Consequently, the adverse locational and character and appearance impacts of the proposal significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

35. The proposal conflicts with the development plan and the material considerations, including the provisions of the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

⁶ APP/J1915/W/24/3340497

S Lo

INSPECTOR