



Appeal Decision

Site visit made on 12 November 2024

by A Knight BA PG Dip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2025

Appeal Ref: APP/B1930/W/24/3342701

Land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath

- 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 Lindhill Properties Ltd against the decision of St Albans City and District Council.
 - The application Ref is 5/2023/2100.
 - The development proposed is construction of 9 dwellings with new vehicular access, provision of new landscaping and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of 9 dwellings with new vehicular access, provision of new landscaping and associated works at land at Junction of Roestock Lane and Bullens Green Lane, Colney Heath in accordance with the terms of the application, Ref 5/2023/2100, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of this application a revised National Planning Policy Framework (The Framework) has been published. The main parties have been given the opportunity to comment. I have considered these and the revised Framework in my decision.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies and, if so, the effect of the proposed development on the openness of the Green Belt; and
 - Whether the appeal site would be a suitable location for the proposed development, having regard to local and national policy.

Reasons

Whether inappropriate development

4. Policy 1 of the St. Albans District Local Plan Review (1994) (The Local Plan) defines the extent of the Green Belt and specifies types of development that would be acceptable within it. The appeal proposal does not comprise any of

the specified types and, as such, constitutes inappropriate development by the terms of Policy 1.

5. However, Policy 1 pre-dates the Framework and is inconsistent with it, in that it does not contain the same list of exceptions to inappropriate development; Paragraph 154 of the Framework requires that a local planning authority regard the construction of new buildings as inappropriate in the Green Belt save for certain exceptions. This includes an exception not specified in Policy LP1, which is (e) limited infilling in villages. In addition, paragraph 155 of the Framework states that the development of homes in the Green Belt should also not be regarded as inappropriate if each criterion set out thereafter is met.
6. In respect of whether the proposed development would comprise limited infilling in a village, the appeal site (the site) is outside of three nucleated clusters in the village of Colney Heath, as identified in the Green Belt Review: Washed Over Villages Study Annex Report (2023). In addition, development north of 2 and 9 Bullens Green Lane (No 2 and No 9), and of 130 Roestock Lane (No 130) is laid out in a notably more spacious and, in places, informal pattern than is typical locally. During my site visit, I found the distinction to be evident and pronounced.
7. Even so, Bullens Green Lane leads on northward past those three houses, and includes a seamless continuation of the vehicular highway, pavement, street lighting, and telegraph poles. The distance between the three houses and those to the north is short. Overall, for these reasons, I am content that the appeal site is within the village.
8. There is no definition of “limited infilling” within the Framework. However, I consider that it would comprise the filling of a defined and limited gap between buildings, rather than the development of a more substantial, open and mostly undeveloped area of land that happens to be in close proximity to other buildings.
9. To the south of the appeal site, Bullens Green Lane is set out in traditional residential form, with houses oriented towards the road. Most of the housing is laid out in uniform fashion with a clear, continuous, building line. Front gardens are open. Gaps between properties are modest. A pavement serves the western side of the street. There is a cohesive, planned, suburban feel.
10. The housing immediately north of the site is, by contrast, limited in number and largely concealed behind dense greenery. One house is set in open paddocks, and the rest are clustered around a private drive. Access is prohibited by gates. There is no sense of traditional, planned, suburban development.
11. The site is an undeveloped paddock. It has a long and dense hedgerow border. There is no pavement outside the appeal site on either side of the road. The western edge of the site bends in such a way that the housing to the north and south of it are only partially visible to one another. The size, shape, and characteristics of the site are such that it provides a significant separation distance, visual break, and distinct intervening land use between two unrelated groups of buildings that are a good distance apart.

12. My attention has been drawn to previous appeal decisions regarding limited infilling in villages. Whilst a development of some nine units in Bricket Wood¹ was found to comprise limited infilling, I have no evidence that the relationship between the number of units approved and the size of the host village in that case is comparable to that before me. Moreover, that site had been previously developed in the centre of a coherent row of developed plots, such that the Inspector found it “sufficiently enclosed or surrounded by adjoining developments to represent infill development”. The circumstances at the appeal site are entirely different.
13. Whilst I have not been provided with the details of an appeal in which a dwelling was allowed on land rear of Hawthorns, Roestock Lane², I saw for myself that Hawthorns is one of a relatively uniform row of houses positioned to the front and rear of a row of consistent plots oriented towards the same street. The surrounding, northernmost end of Roestock Lane comprises a distinct pocket of suburban formality, to which that approved dwelling adheres. The appeal site before me does not possess such traits. In addition, the number of dwellings in that scheme is significantly less than in the appeal.
14. An appeal regarding six dwellings in Fifield, Maidenhead³ was allowed as the Inspector was “satisfied that the gap in this case falls between continuous development to either side” which is not true of the appeal proposal before me.
15. In this context, the appeal proposal would result in more than limited infilling. As such, the proposal does not benefit from the exception set out in paragraph 154(e) of the Framework.
16. In respect of paragraph 155 of the Framework, both main parties agree that the site can be defined as grey belt. From reviewing the evidence and from what I saw during my site visit, I consider that the land does not strongly contribute to any of the purposes of checking the unrestricted sprawl of large built-up areas, of preventing neighbouring towns merging into one another, or of preserving the setting and special character of historic towns. As such, I agree with both parties, and consider the land to be grey belt.
17. Paragraph 155 of the Framework states that the development of homes in the Green Belt should also not be regarded as inappropriate where, as well as utilising grey belt land, it would not fundamentally undermine the purposes (taken together) of the remaining Green Belt across the area of the plan, there is a demonstrable unmet need for the development and it would be in a sustainable location.
18. I am satisfied that the distances from the appeal site to the next nearest settlements are sufficient that the proposed development would not result in the unrestricted sprawl of large built-up areas or the merging into one another of neighbouring towns. Green Belt countryside beyond the appeal site would not be encroached upon as a result of the scheme due the defined nature of the development boundary, and there are no historic towns near enough to the site that their setting and special character could be affected. I do not see that the development of this Green Belt site would be at odds with

¹ Appeal Decision APP/B1930/W/20/3249093

² APP/B1930/W/21/3275907

³ APP/T0355/W/22/3304595

encouraging the recycling of derelict and other urban land, as planning policies therein remain explicitly more encouraging of development. In addition, the housing land supply position demonstrates there is unmet need.

19. I will address whether the site is in a sustainable location, with particular reference to paragraphs 110 and 115 of the Framework, below. The proposed development is not a major development (as also defined in the glossary of the Framework) and, therefore, criterion (d) in paragraph 155 is not applicable.
20. The development is not inappropriate development in the Green Belt by virtue of paragraph 155 (a) and (b) of the Framework. I will come back to paragraph 155 (c).

Location

21. The Framework describes the purpose of the planning system as being “to contribute to the achievement of sustainable development”, an aim containing an environmental objective of mitigating and adapting to climate change (paragraph 8c). This includes delivering sustainable places, identifying and pursuing opportunities to promote walking, cycling and public transport use (paragraph 109), limiting the need to travel and offering a genuine choice of transport modes (paragraph 110), prioritising sustainable transport modes and ensuring safe and suitable access to the site can be achieved for all users (paragraph 115), as well as planning development in ways that helps to reduce greenhouse gas emissions, such as through its location (paragraph 164).
22. Both main parties have referred me to an appeal decision regarding a proposal for 150 homes at Tollgate Road, a site also in Colney Heath⁴. In that case, the Inspector found that whilst the village contained some facilities, it would be necessary for future occupiers of the proposed development to travel to other settlements for many normal daily needs. Public transport and local cycle routes were found not to offer genuine alternatives to car use. Overall, whilst the location of the site in relation to services and facilities was not so poor as to justify a discreet reason for refusal, it was an important factor in the planning balance.
23. Whilst there is no evidence that the circumstances described above have changed, Tollgate Road is at the southern end of Colney Heath, and the current appeal site is at the northern end. Unlike Tollgate Road, therefore, the current appeal site is within a short walk of an underpass beneath the A1, which leads to South Hatfield.
24. The underpass is well-lit and, on the evidence before me, drains well in heavy rain. South Hatfield offers a range of buses to other nearby towns and, moreover, contains a reasonable enough range of shops and services itself that occupants of the proposed development could rely upon it for many daily needs. I recognise that the underpass and paths leading to it are secluded and that this may make the route uninviting for some, particularly after dark. Nevertheless, I see no evidence that it would deter most people from using the route, particularly if they planned their trips for busier daylight hours.

⁴ Appeal reference not provided, planning application ref 5/2022/1988

25. Overall, I consider the site to be in a location where walking, cycling, and public transport are viable alternatives to the private car. As such, the appeal proposal complies with Framework in that respect.
26. In light of the above, the proposed development would be in a sustainable location. As such, it would comply with paragraph 155 (c) of the Framework. Taking paragraph 155 of the Framework as a whole, the proposed development would comply with criterion (a), (b) and (c). As noted above criterion (d) is not relevant to the appeal scheme. As such the proposed development would not be inappropriate development.

Other Matters

27. I have considered third party objections to the proposed development. Where these relate to the main issues, I have addressed them above. Otherwise, I note that, following consultation, the Council found no reasons to refuse the application in respect of flood risk, design and appearance, highway safety, traffic, landscape, and ecology. I have no evidence leading me to a different view. Any restrictive covenant on the land is a private civil matter.

Conditions

28. The Council has provided a list of suggested planning conditions, which I have considered against paragraph 57 of the Framework, and advice contained in the Planning Practice Guidance. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out following the approved plans, for the avoidance of doubt and in the interests of certainty. A condition requiring site and slab levels to be established is necessary to accurately establish the final heights of the development and must be discharged in advance of development so as to be verifiable by way of site inspection before the land is altered.
29. Conditions controlling the external materials and landscaping used in the development are necessary to control the appearance of the development. A condition restricting domestic permitted development rights is necessary to ensure that a development which has raised no objections from the Council on grounds of character and appearance, or living conditions for future occupiers, retains the proposed architectural completeness and balance within the dwellings, and appropriate external amenity areas.
30. Conditions requiring the submission of detailed designs for the footway and governing visibility splays are necessary in the interests of highway safety. A condition requiring cycle parking facilities is necessary to ensure that occupants of the site are encouraged to cycle and must be agreed in advance to ensure that development is not undertaken without confirmation that such facilities can be adequately accommodated.

Conclusion

31. For the reasons given above, I allow the appeal.

A Knight

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 9208-001, 9208-002, 9208-003, 9208-004, 9208-005, 9208-006, 9208-007, 9208-008, 9208-009, 9208-10, 9208-11, Transport Technical Note (Oct 2023), SK07 Rev B, and SK09 Rev B.
- 3) The development hereby permitted shall not be commenced until drawings showing existing levels and proposed slab levels have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved drawings.
- 4) Prior to the commencement of above ground construction works, details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the landscaping indicated on the plans hereby approved, no landscaping works shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.

These details shall include:

- (a) Soft landscaping details
- (b) hard surfacing materials;
- (c) existing trees to be retained;
- (d) existing hedgerows to be retained;
- (e) implementation programme.

Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with the plant and grass establishments); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate.

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the first use of any part of the development or as otherwise in accordance with the implementation programme agreed with the Local Planning Authority.

6) Notwithstanding the provisions of Schedule 2, Part 1, Classes A, B, C and E of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwellings hereby permitted, including any additions or alterations to the roof, and no building or enclosure shall be constructed within the application site.

7) Notwithstanding the details indicated on the submitted drawings, no on-site works above slab level shall commence until a detailed scheme for the off-site

highway improvement works to extend the footway northwards have been submitted to and approved in writing by the Local Planning Authority.

8) Prior to the first use of the development hereby permitted, the improvement works referred to in condition 7 shall be completed in accordance with the approved details.

9) Prior to the first occupation of the development hereby permitted a visibility splay shall be provided in full accordance with the details indicated on the approved drawing numbers SK07 Rev B. The splay shall thereafter be retained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

10) Prior to the first occupation of the development hereby permitted the vehicular access shall be completed and thereafter retained as shown on drawing number SK09 Rev B in the Transport Technical Note (Oct 2023). Prior to use, appropriate arrangements, as agreed with the Local Authority, shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.

11) Prior to the commencement of the development hereby permitted, a scheme for the parking of cycles including details of the design, level and siting shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the development is first occupied or brought into use and thereafter retained for this purpose.

Schedule Ends