



Appeal Decision

Site visit made on 12 February 2025

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 April 2025

Appeal Ref: APP/J1915/W/24/3355802

Land adjacent to 4 Pump Hill, Brent Pelham, Hertfordshire SG9 0HG

- 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 Major TPE Barclay & Mrs EA Barclay against the decision of East Hertfordshire District Council.
 - The application Ref is 3/24/0610/FUL.
 - The development proposed is the construction of two semi-detached houses..
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of two semi-detached houses on land adjacent to 4 Pump Hill, Brent Pelham, Hertfordshire SG9 0HG, in accordance with the application Ref 3/24/0610/FUL, subject to the conditions in the attached schedule.

Main issues

2. Having considered all of the written submissions and supporting evidence before me, I find that the main issues in the appeal are:
 - whether the appeal site is an acceptable location for the proposed development, having regard to the relevant planning policies relating to the location of new development in the rural part of the district; and
 - the need to boost the supply of land for housing in the area, and the effects of this on the present appeal.

Reasons for decision

Suitability of the location

3. Pump Hill forms part of the main village street running through the centre of Brent Pelham. The existing property, No 4, is the end house in a short row of semi-detached cottages. To one side is an access track leading to land at the rear, and just beyond this is a group of former barns, now converted to residential use. The appeal site comprises No 4's side garden, together with a small pocket of unused grassland. The proposal is to construct an additional pair of semi-detached dwellings, facing Pump Hill, with access from the existing track.
4. The development plan for the area is the East Herts District Plan (the EHDP), adopted in October 2018. Policy DPS2 sets out the overall strategy, which seeks to channel most new development to brownfield sites and urban areas, plus some limited development in the villages. Policy GBR2 defines the types of development that will be allowed in the rural area. These include limited infilling or

the redevelopment of previously developed land in sustainable locations, where compatible with the character and appearance of the site and setting. Policies VILL1 - VILL3 divide the District's villages into three groups. Brent Pelham is a Group 3 village, where Policy VILL3 permits limited infill, where identified in a neighbourhood plan, and where a list of other criteria are also met; the latter relate mainly to matters of design and layout, and the effects on village character. In addition, Policy TRA1 seeks to promote sustainable travel, by locating development where a range of transport options are available.

5. In the present case, the appeal proposal for two dwellings is clearly a 'limited' development in terms of its scale. It is not disputed that the appeal site is an infill site within the village, nor that at least part of it falls within the definition of previously developed land. Nor is there any apparent disagreement over the scheme's compliance with the majority of the criteria in Policy VILL3, including the appropriateness of its design and suitability in terms of local character. As a Group 3 village, Brent Pelham is not amongst the District's most sustainable locations. But even so, it has some basic facilities, including a church, village hall and pub. It also has weekday bus services to several nearby towns, as well as a bookable community bus. Consequently, given that the EHDP's locational policies are clearly designed to allow for minor developments of this type, in smaller settlements of this kind, it seems to me that the appeal site provides a reasonable choice of transport modes. In all these respects therefore, I find that the proposed development would generally accord with the group of EHDP policies that I have identified, comprising Policies DPS2, GBR2, VILL3 and TRA1.
6. The village of Brent Pelham has no neighbourhood plan, and the appeal site is therefore not identified in such a plan. To this extent, the appeal scheme would involve a conflict with this one element of Policy VILL3. However, in the context of the above, this seems to me a somewhat limited conflict. Allocations in neighbourhood plans are clearly one way of identifying suitable sites, but not necessarily the only way. The reasons behind this approach in Policy VILL3 are not stated, but in the absence of any further explanation, there seems no reason why the policy's aims would not be equally served by admitting other suitable windfall sites that have not been previously identified. I appreciate the desirability of decisions being plan-led, but that principle is somewhat undermined when the level of plan-making needed for an effective decision is absent. In this case, for the reasons already stated, the proposed development would comply with all other aspects of the EHDP's locational policies, and the partial conflict with Policy VILL3 in respect of neighbourhood plans does not seem to me to detract significantly from this finding. On balance, it seems to me that when Policies DPS2, GBR2, VILL3 and TRA1 are read together as a group, the appeal proposal is in general accordance with the aims of those policies, and thus with the development plan as a whole.
7. In addition, the National Planning Policy Framework (the NPPF) is an important material consideration. In rural areas, NPPF paragraph 82 states that planning policies and decisions should be responsive to local circumstances. Paragraph 83 advocates that housing should be located where it will enhance or maintain the vitality of rural communities, helping them to thrive, and supporting local services, including those in other nearby settlements. Paragraph 110 advises that patterns of growth should be managed to support sustainable transport objectives, but also recognises that opportunities for this will vary between urban and rural areas. In

general, the policies of the EHDP referred to above seem broadly consistent with these national policies. However, Policy VILL3 seems somewhat less so, as the restriction of infilling to sites identified in neighbourhood plans does not appear to fully reflect the NPPF's more positive stance towards the role of new development in supporting rural services and community life. This inconsistency reduces the weight that I attach to that particular element of Policy VILL3.

8. In the present case, the two proposed new dwellings would have the potential to help support the existing services not only in Brent Pelham itself, but also in other neighbouring villages such as Furneaux Pelham and Great Hornead, both of which have primary schools as well as other facilities. Whilst these existing rural facilities are few, they are likely to be highly valued by their local communities, and therefore the benefits of adding to their catchment populations are potentially significant. This reinforces the view that I have come to as set out above.
9. For these reasons I conclude that, notwithstanding the partial conflict with EHDP Policy VILL3, the proposed development would comply with the remainder of that policy, and with Policies DPS2, GBR2 and TRA1. On balance therefore, the scheme would generally accord with the development plan's policies relating to development in the rural area, read as a whole. It would also accord with the relevant paragraphs of the NPPF. I therefore find the appeal site to be an acceptable location for the development now proposed.

Housing land supply

10. The most recent position statement published by the Council appears to be that dated April 2024, which claimed a housing land supply of 5.95 years. However, in August 2024, in an appeal decision relating to land at Buntingford, an Inspector found that the deliverable supply was substantially less than the Council's assessment, leading him to calculate a figure of between 4.2 – 4.49 years¹.
11. In December 2024 a revised NPPF was published, which included changes to the buffers needed for the 5-year supply calculation, and changes were introduced to the Standard Method used in calculating local housing need. These changes have increased the District's annual target and overall 5-year requirement. Since then, the Council has evidently accepted in other appeals that it can no longer demonstrate a 5-year supply, including in two very recent decisions, dated 11 and 13 March 2025².
12. In the present appeal, the appellant contends that the current supply is likely to be in the region of 3.5 years. The Council has not disputed this figure, or the lack of a 5-year supply. Whilst no detailed evidence is before me as to the precise figure, it seems clear that the District currently cannot meet the NPPF's requirement for a 5-year supply, and indeed that the supply is likely to fall well short of that target.
13. In the absence of a 5-year supply, NPPF Footnote 8 requires that the most relevant development plan policies be deemed out-of-date. In the present case, this includes all of the locational policies identified earlier in this decision. And in the event of any conflict with these or other development plan policies, NPPF paragraph 11d provides for a 'tilted balance' with permission being granted unless

¹ APP/J1915/W/24/3340497 - Land east of A10, Buntingford

² APP/J1915/W/24/3354470 - Conduit Lane, Brent Pelham; and APP/J1915/W/24/3353844 – Church End, Stocking Pelham

the adverse impacts would outweigh the benefits of the development, significantly and demonstrably.

14. In this regard, it seems to me that in these circumstances, the benefit of increasing the District's land supply must carry substantial weight. The appeal scheme would only go a small way towards making up the shortfall, but nevertheless, substantial weight is justified due to the urgency of the need to do so.

Other matters

15. The proposed design for the new dwellings is in keeping with the style of the existing row of houses which includes Nos 1- 4 Pump Hill. The materials indicated would be sympathetic to the surroundings, and the details of these can be controlled by condition. The site is largely contained by existing hedgerows, and further landscaping is proposed. The three trees that would need to be removed are not of any significant quality, or of any particular amenity value. The small grassed area that would be lost does not seem to provide any particular value to the street scene. Overall, the scheme seems to me a well-considered and restrained design, which would enhance the character and appearance of this part of the village.
16. The development would be located within the Brent Pelham Conservation Area, and within the settings of several listed buildings, including the farmhouse and former barns at Downhall Farm, and Pumphill Cottage. However, in view of my findings on the quality of the scheme, the impact would be a positive one. As such, the development would cause no harm to any of the nearby heritage assets or their significance, and their character and appearance would be preserved.
17. I note the concerns of some local residents with regard to existing flooding in the vicinity. However, there is no evidence that this would be exacerbated. The appeal site itself is agreed to be in a 'Zone 1' area, where the risk of flooding is assessed as low. The details of the proposed soakaways would be a matter for Building Regulations, and on the evidence before me I have no reason to doubt that the development could be constructed so as to comply in this regard.
18. The new dwellings would be sufficiently well spaced from neighbouring properties to avoid any undue impacts in terms of privacy or noise.
19. The concerns expressed about future development are noted. But any such future proposals would have to be considered on their own merits. This is not a matter for the present appeal.

Conditions

20. In the light of the above, I have considered the conditions suggested by the Council, against the tests for planning conditions in NPPF paragraph 57. Those that I intend to impose are set out in the attached schedule. Where necessary, I have edited the suggested wording, for the purposes of clarity and simplicity.
21. A condition specifying the approved plans is necessary for the purposes of ensuring certainty. A requirement for archaeological investigations is justified to protect any historic remains or other evidence. Conditions relating to materials and landscaping are needed to secure a high-quality appearance, and a further condition relating to boundary treatments is needed to ensure good standards of privacy. However, in the latter two cases there seems no need to require further

details, as the submitted information is sufficient. A requirement for ecological enhancements is necessary to secure a net gain, in compliance with EHDP Policy NE3. And a condition to secure the provision of the proposed new access and vehicular areas is needed for reasons of highway safety, although again there is no need to require further details, as adequate and acceptable information has already been submitted. In all these cases, I have imposed conditions accordingly.

22. None of the other conditions suggested by the Council seems to me to meet the NPPF tests. A condition to provide electric vehicle charging points would duplicate the similar requirement which exists under Part S of the Building Regulations. A withdrawal of householder permitted development rights does not appear to be justified, given that the scope of such development is limited in any event, and there is no evidence that the exercise of those rights would cause harm. The suggested condition relating to sustainable construction methods is too vague to be intelligible or enforceable. With regard to the proposed heat pumps, details of the noise output have already been submitted, and there is no evidence that any mitigation would be needed in this respect; and in any event the suggested condition fails to specify the required target levels, and would thus be ineffective. I have therefore not imposed these conditions.

Conclusion

23. As set out above, the proposed development would conflict with one element of EHDP Policy VILL3, but that conflict carries relatively little weight, because the policy is deemed out of date, due to the lack of a 5-year housing land supply. And in any event, when Policies DPS2, GBR2 and TRA1 are taken into account too, the scheme would largely comply with the EHDP's overall suite of policies relating to development in the rural area. On balance therefore, the scheme would be in general accordance with the development plan as a whole.
24. In addition, the development would boost the local housing stock, in a District with a significant shortfall in its forward land supply, and would also help to support existing services and facilities in the rural area. Together these benefits add substantial further weight in favour of the scheme. No significant harm has been substantiated. In these circumstances, it is not necessary to apply the NPPF's tilted balance, because even without that provision, the balance is heavily weighted towards approval.
25. I have taken account of all the other matters raised, but none alters these conclusions. The appeal is therefore allowed.

J Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

- 1) The development hereby permitted shall be commenced not later than three years from the date of this decision.
- 2) The development shall be carried out in accordance with the following approved plans:

1844-P-201 Rev F4	Proposed Floor Plans
1844-P-202 Rev F6	Proposed Elevations
1844-P-204 Rev F1	Proposed Site Sections
1844-P-205 Rev F11	Proposed Landscape Ancillaries
1844-P-302 Rev F4	Removals Site Plan
1844-P-303 Rev F10	Proposed Site Plan
1844-P-304 Rev F3	Proposed Visibility Splay
- 3) No development, site preparation or site clearance works shall take place until a programme of archaeological investigation work has been carried out, and reported on, in accordance with an archaeological scheme which shall have been submitted to the local planning authority and approved in writing.
- 4) No construction work above ground floor slab level shall take place until samples of the materials to be used on the external surfaces of the proposed dwellings have been submitted to the local planning authority and approved in writing. Thereafter, the development shall be carried out using the materials thus approved.
- 5) No new dwelling within the development shall be occupied until a programme has been submitted to the local planning authority and approved in writing, for the implementation of the proposed landscaping scheme shown on drawing No 1844-P-303 Rev F10. Thereafter, the landscaping shall be carried out in accordance with the approved details and programme. Any trees or plants which die, or are removed, or become seriously damaged or diseased, within a period of 5 years from planting, shall be replaced in the next planting season with others of similar size and species.
- 6) No new dwelling within the development shall be occupied until the boundary fences and hedges shown on drawing No 1844-P-303 Rev F10 have been provided in accordance with that approved plan. Thereafter, these shall be retained as approved.
- 7) No new dwelling within the development shall be occupied until a scheme of ecological enhancement measures has been submitted to the local planning authority and approved in writing. The scheme shall include the provision of bird and hedgehog nesting boxes, and bat roosting boxes, in accordance with the recommendations of the Preliminary Ecological Appraisal Survey, by Cambridge Ecology, dated November 2023, together with a programme for the installation of these features. Thereafter, the ecological enhancement scheme shall be carried out in accordance with the details and programme thus approved.
- 8) No new dwelling within the development shall be occupied until the following works have been carried out:
 - i) Alterations to the existing site access and shared driveway, as shown on drawing No 1844-P-303 Rev F10;
 - ii) Provision of the proposed parking spaces to serve the two new dwellings and existing property, as shown on drawing No 1844-P-303 Rev F10;
 - iii) Provision of drainage to the driveway and parking areas, in accordance with further details to be submitted to the local planning authority and approved in writing;
 - iv) Provision of visibility splays of 2.4m x 43m in both directions, above a height of 1.05m, as shown on drawing No 1844-P-304 Rev F3.Thereafter, these facilities shall be retained as built, and the visibility splays shall be kept clear of obstruction, throughout the life of the development.