



Appeal Decision

Site visit made on 16 December 2024

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/J1915/W/24/3343727

Heatherdown, B1368 North From Junc With Hare Street Road To Biggin Hill, Hare Street, Hertfordshire SG9 0AE

- 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 Pelham Structures Ltd against the decision of East Hertfordshire District Council.
- The application Ref is 3/23/2281/FUL.
- The development proposed is Demolition of existing outbuildings, and erection of 5 dwellings.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Pelham Structures Ltd against East Hertfordshire District Council. That application is the subject of a separate Decision.

Preliminary Matters

3. In the period since the Council's determination of the planning application and the subsequent submission of this appeal, a revised version of the National Planning Policy Framework (the Framework) was published¹. The main parties have been afforded the opportunity to comment on changes relevant to their respective cases and I have determined the appeal accordingly.

Main Issues

4. The main issues are;
 - Whether or not the appeal site is an appropriate location for the proposed development, with particular regard to national and local planning policy;
 - The effects of the proposed development on the character and appearance of the appeal site and surrounding area; and
 - Whether or not the proposed development would make safe and adequate provision for the parking of vehicles.

Reasons

Location

5. Policy DPS2 of the East Herts District Plan (2018) (EHDP) sets out the Council's development strategy for the district in the form of a settlement hierarchy which aims to deliver sustainable development, and where limited development in the

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villages is part of that hierarchy and strategy. EHDP Policy VILL2 identifies Hare Street as a 'group 2' village where limited infill development within the village will, subject to other relevant policies in the EHDP, be permitted. Neither 'infill' nor 'limited' are defined in relations to EHDP Policy VILL2.

6. It is agreed between the parties that the site lies almost entirely beyond the defined village settlement boundary of Hare Street. That which lies within it is so limited in its extent as to be immaterial and so the appeal scheme cannot be said to be in accordance with either Policy DPS2 or Policy VILL2 of the EHDP.
7. In relation to land beyond the village settlement boundary of Hare Street, the EHDP defines it as being the 'Rural Area Beyond the Green Belt'. These areas make up approximately two-thirds of the district's areas and are, the supporting text to EHDP Policy GBR2 explains, highly valued by residents and visitors alike. The Policy seeks to main these areas as valued countryside resources but recognise that the limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations can be acceptable, where appropriate to the character, appearance and setting of the site and / or the surrounding area.
8. Although now of some age and pre-dating the Framework, the 'Buntingford Community Area Neighbourhood Plan 2014-2031'² (BCANP) Policy HD1 is supportive of small-scale infill development within or immediately adjoining significant clusters of development, subject to being consistent with other residential development policies in the BCANP.
9. It is broadly agreed between the parties, and supported by appeal decisions and a recent Council decision on a planning application elsewhere in the village³ that I have been referred to⁴⁵, that Hare Street is a sustainable location for residential development. Although not overly imbued with services and facilities, I saw (and have read) that there are sufficient within Hare Street, including public transport links, to be typical of many rural villages. Although the site lies almost entirely beyond the village settlement boundary, it is not the last developed site associated with the village as the sports ground with its pavilion building lies to the east of the site set just off the B1038 road towards Great Hormead. Furthermore, although a broadly linear village, the staggered junction of the B1368 and the B1038 Hare Street Road is as much a 'focal point' as anything else, and the site is sufficiently close to and within easy walking distance of this are as to be a sustainable location for development, even if not wholly within the village's settlement boundary.
10. However, neither EHDP Policy GBR2 nor BCANP Policy HD1 define small scale infill development. Nevertheless, and notwithstanding the presence of the sports ground and pavilion further east along the B1038, I am not persuaded that the development proposed for the appeal site amounts to infill development. Setting aside whether or not the appeal site amounts to previously developed land, the existing house at Heatherdown is set back, and gable end on, to the B1038. The open grassed area to the east of the site is extensive whilst the pavilion building is a low-level building and set down and back from the road.

² Made March 2017

³ LPA Ref No: 3/23/1819/FUL

⁴ APP/J1915/W/22/3303408 – referred to by the appellant as the 'Bennington appeal'

⁵ APP/J1915/W/19/3226396 – referred to by the appellant as the 'Bradbury appeal'

11. Infilling in development terms is typically understood to comprise built development that would fill in a gap between properties or within an otherwise continuous row of properties. It is clear from viewing the site and the surrounding area that the appeal site does not constitute an infill site opportunity, nor would the form of the development amount to infill development.
12. I have been appraised by the submissions of both main parties as to the appeal site's planning history, including descriptions of previous buildings, operations and activities carried out there. A large workshop building, previously associated with the operation of a coach depot and coach business currently occupies the area where the dwelling on plot 1 would be located, whilst there is also a 'park house' style building located approximately where the dwelling at plot 3 would be located.
13. Previously developed land (PDL) is not defined in the EHDP for the purposes of Policy GBR2(e), but the Framework provides a definition in its 'Glossary'. It is agreed by both parties that the appeal site does not lie within the village settlement boundary of Hare Street and whilst the Council consider in detail the matter of whether or not areas of the site fall within the curtilage of either the former workshop or Heatherdown, a case is not advanced that the site lies in a 'built up area' for the purposes of exclusion from the definition of PDL. I agree, as the site cannot be both within and outwith the built-up area of the village, and thus the village settlement boundary, at the same time. Thus, for the purposes of EHDP Policy GBR2(e) the appeal site lies beyond the built-up area of Hare Street and I turn now to the matter of PDL.
14. I am advised that the dwelling at Heatherdown was granted permission in the 1970s with an occupancy restriction tying its occupancy to that of an employee of a coach business on what is now the appeal site (and adjoining areas of land). The appellant's evidence, not directly challenged by the Council, is that the coach depot operations included the workshop building within the site and the areas around it for the parking and storage of coaches. It is not clear if there was any differentiation between the extent of the coach operations and the area associated with Heatherdown within the application site.
15. The coach depot and coachworks ceased operating in the early 2000s and permission was granted in 2010⁶ to break the occupancy link between the coach operations and occupancy of Heatherdown. However, it seems that the largely open nature of the land, undivided by walls, fences or other means of enclosure, around and between Heatherdown, the workshop building and across the appeal site that the appellant states existed whilst the coach depot was operational, has remained unchanged since.
16. Although Heatherdown has an area of private garden to the rear and side of the house, marked by a timber fence, the area to the front is largely undefined by boundary structures or planting. Access, driveway and turning area for the property are immediately to the front of the house, with areas of lawn immediately around the building's front elevation. A knee-high wall separates the driveway and the path and steps up to the front porch from small areas of lawn to either side. The wall continues as a retaining wall to the lawn which adjoins the driveway and bounds the driveway to its junction with the B1038.

⁶ LPA Ref No: 3/10/1685/FO

17. The wall is low, however, beyond which lies mown grass. Within this area, only a short distance from the driveway, are a small number of decorative shrubs and a small ornamental pond. Beyond these features, the mown grass continues to the east, across the remainder of the appeal site and beyond to the hedgerow boundary with the playing field. Across this entire area, there is no demarcation of areas; no hedges, no line of shrubs, no fences, walls or other means of enclosure and no noticeable or visual change in the manner of the maintained grass. I saw that within this area there was what appeared to be a composting area but no other features that suggested an intimate relationship with the residential use and occupation of Heatherdown.
18. The buildings within the appeal site (and beyond) are surrounded by the same manner of mown grass, whilst the loosely-surfaced access track runs from the B1038 through the site to the park-home and the side of Heatherdown. The Council accept that the workshop building was previously used in connection with the coach depot operation, and do not dispute the appellant's evidence regarding the somewhat free-ranging nature of the coach depot's use of the land that now falls within the appeal site. It is not inconceivable that buses were either parked or stored on the land adjacent to the building, but the extent of any such use is not evident, nor has been demonstrated.
19. Neither curtilage nor residential curtilage are defined in the EHDP or the BCANP, or in the Framework. It is a matter of fact and degree as to whether or not the land is part and parcel of, or has an intimate association with, the building to which it is attached. There is no dispute that the area of land upon which the workshop is sited would constitute previously developed land, as may the land intimately around it. The area of the site across which the hardstanding of the access track and turning head outside the workshop lies could also amount to PDL for the purposes of EHDP Policy GBR2(e).
20. The grassed area that extends from Heatherdown's driveway retaining wall across the remainder of the appeal site, particularly in an easterly direction, and around the workshop building, does so in a largely contiguous manner, but I am not persuaded that it does so in a manner that it could be said to be part and parcel of, or has an intimate association with, either the workshop building or Heatherdown. The parking and storage of vehicles in the outbuilding does not necessarily amount to compelling evidence that it falls within residential curtilage of Heatherdown. Nor has the extent of the coachworks operation been compellingly demonstrated.
21. However, I am satisfied that the building itself and the area of land around it that is part and parcel of, and intimately associated with it, does amount to PDL. It does not follow that the entirety of the grassed open area is one and the same for the purposes of whether or not the whole area amounts to residential curtilage and, thus, PDL. Indeed, with regard to Heatherdown, it seems to me that the closely defined area of land intimately associated with, or part and parcel of, the residential occupation of Heatherdown might more reasonably be limited to a smaller area just to the east of the driveway retaining wall and the ornamental bushes and small pond.
22. The extent of coach depot operations into these areas has not been persuasively demonstrated, nor that the inclusion of these wider grassed areas into the extent of the 2010 application to release the occupancy tie between Heatherdown and

the former coach depot use automatically rendered them residential curtilage. Whilst it is acknowledged that the appellant's family have owned the appeal site, the land upon which Heatherdown is sited and the land adjoining the appeal site for a considerable length of time, the past and present use and function of the land has not been sufficiently demonstrated for me to conclude that the appeal site is PDL. Rather, it is, at best, only partly PDL and as such the appeal scheme does not benefit from the exemption and qualifications set out by EHDP Policy GBR2(e).

23. Even if I were to accept, however that the site in its entirety was PDL, the Framework is clear that even if that is so it should not be assumed that the whole of the curtilage should be developed. Moreover, EHDP Policy GBR2(e) qualifies the permissive approach set out with the caveat that proposals are compatible with, and appropriate to, the character, appearance and setting of the site, the surrounding area and the rural area more widely. I therefore consider these matters below.

Character and appearance

24. Hare Street is a broadly linear settlement along the north-south alignment of the B1368. It is not, however, exclusively so and, given the site's location close to the junction with the B1038 Hare Street Road, there is visual depth to the built form of the village on approach from the east. Indeed, given the prevailing fall and rise of the land on approach from the east, Heatherdown and the development to the side and rear of it is visible for some distance.
25. The depth of development that the appellant proposes in this instance would do little to alter the approach to the village from the east, other than to extent its built extent further eastwards along the B1038 than is currently the case. The existing sheds within the appeal site and, more crucially, the recent development to the rear of the appeal site accessed from the B1368 provides depth to the settlement that is not really evident on approach along the B1368 from the north or the south. However, as the B1038 intersects the village and its main north / south axis, a greater sense of the depth of development is inevitable when the rear aspect of properties along the linear B1368 are seen.
26. However, whilst the appeal scheme would not fundamentally alter the nature or character of the approach to the village from the east, the appeal scheme does not share the predominantly linear form elsewhere within the village. Whilst I accept that the site to the rear provides a ready example of a scheme that has deviated from the prevailing form and pattern of development, it at least did so within the broad framework of the extent of existing residential development, particularly along the rears of properties fronting the B1368.
27. The appeal site differs, however. Heatherdown marks the existing built residential extent of the village on the south side of the B1038, and it extends only a little further on the northern side. Unlike the site to the rear, which was constrained by the B1038, Heatherdown itself and existing residential development further south along the B1368, the appeal site very much lies at the fringe of, and extends into, the pleasant undulating countryside beyond. Thus, the proposed development would not be neatly constrained within existing physical and visual limits. Rather, it would extend and sprawl beyond those existing limits with the two frontage plots introducing a form of ribbon development eastwards along the B1038 which is not

typical of built form along that road, or indeed typical of development other than along the main north-south village axis.

28. Not only would the frontage plots introduce ribbon development which EHDP Policy VILL2(e) seeks to resist, the open nature of the site also serves as a significant area of open space that provides the setting to the village beyond. Whilst there are detached buildings within the appeal site and on the land to the east of it, they are recessive and of little visual impact upon the sense of openness otherwise created by this space. So too, the pavilion on the sports field and playing field which avoids intrusion into the gently rising vista towards the village from the bridge over the small river.
29. Whilst the frontage dwellings are well designed, and would be pleasing in their appearance, they would incrementally extend the built form of Hare Street eastwards along the B1038. Such creeping expansion would erode the fundamental form and character of Hare Street and harmfully alter its relationship with the gently undulating countryside beyond. The proposed bungalows on plots 2 and 3 would be relatively discretely proportioned and sited, but the scale, bulk and spread of the dwelling at plot 1 would dominate the easterly approach to the site and settlement. This, combined with the two storey gable elevation of plot 5 being relatively open and exposed with only the grassed open space as foreground to it, the two dwellings would present a harsh and abrupt extension to the village's built form.
30. The existing roadside hedge would be retained and would intercept closer views of the proposed buildings from the B1038, as would the hedge along the eastern edge of the adjoining piece of land adjoining the sports field. Nevertheless, the nature of the approach to the site is such that the scale of, particularly, the dwellings at plots 1 and 5 and the overall layout of the site would introduce a more abrupt transition from rural countryside to the built form of Hare Street than is currently the case. An area of open space that contributes positively to the setting and character of Hare Street would be eroded and the point at which the transition from Hare Street's built form to the countryside beyond occurs would be incrementally moved outwards from the core form of the village, eroding its characteristic linear form along the B1368.
31. For these reasons, the appeal scheme would cause harm to the character and appearance of the appeal site, and the site's contribution to the approach to, setting of, and character and built form of Hare Street. The scheme would not be appropriate to the character or appearance of the rural area and the rural approach to Hare Street from the east and would be of a form and layout that would fail to appropriately reflect that of Hare Street. As such, it is contrary to EHDP Policies DES4, GBR2 and VILL2 and BCANP Policies HD2 and HD4. The Framework also states, amongst other things, that high quality, beautiful buildings and places are fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development and that developments should be visually attractive as a result of, amongst other things, good layout, are sympathetic to local character, the surrounding built and natural environment and maintain a strong sense of place. For these reasons, I am not persuaded that the appeal scheme achieves these aims of the Framework.

Parking

32. It is noted that the Council have conceded that the proposed scheme would provide a total of at least 12 car parking spaces, that being the quantum of car parking spaces that the Council state are required to satisfy the provisions of the Council's 'Parking Standards SPD'⁷ (SPD). Nevertheless, in addition to the initial site plan⁸ that shows the number, position and allocation of the parking spaces across the site, a further plan⁹ demonstrating vehicle tracking paths has also been submitted with the appellant's 'Final Comments', and which shows a revised allocation layout for spaces within the site.
33. Indeed, on that plan a total of 13 spaces would be provided, albeit that the allocations to the respective properties would better reflect the content of the SPD in relation to the number of spaces and the sizes of the dwellings. The Council's refusal reason was framed in the context of a shortfall of car parking within the site likely to result in the displacement of vehicles to the B0138 and on-street parking there. A further revision, in the form of a plan extract within the appellant's Statement of Case appears to show an alternative allocation of spaces, albeit again making provision of 13 vehicle parking spaces.
34. Although the B1038 outside the site is a two-way carriageway with a pavement, its width nevertheless feels quite restricted, perhaps due to the proximity of the verge and hedgerow on the opposite side of the road to the carriageway itself. There appeared, at least from my observations and experience during the course of my visit, to be sufficient room for two cars to pass, albeit that that might not be so for larger vehicles. I have little doubt however that on-street parking in this location would be prejudicial to the free and safe flow of the road for road users and pedestrians, particularly given the pavement link to the playing fields and, thus, reasonable frequency of use by pedestrians.
35. The swept-path analysis plan⁹, whilst showing sufficient car parking spaces, does not appear to show manoeuvring space to allow the illustrated large vehicle to turn completely and exit the site in a forward motion. It also appears to rely on space directly in front of the bedroom windows of the house at plot 2 for the manoeuvring of such vehicles. However, subject to suitably worded conditions, there was no objection to the scheme from the local highway authority on these grounds, nor do they form part of the Council's case in this respect. The appellant's revised plan⁹ shows parking laid out to be contiguous with each property and it seems to me therefore that the appeal scheme would make adequate provision for the parking of vehicles. There would be no conflict with EHDP Policy TRA3 as a consequence which is a more up to date express of the approach to car parking provision than that of BCANP Policy T1.

Other Matters

36. There is no agreement on the Council's current housing supply position. The appellant suggests a position somewhere between 3.81 years and 4.5 years relying largely upon an Inspector's conclusions in the 'Bennington appeal' and the more recent 'Buntingford appeal'¹⁰ whilst the Council upwardly revised their figures

⁷ 'Vehicle Parking Provision at New Development' Supplementary Planning Document

⁸ Drwg No: 608 x 0200

⁹ Drwg No: 608 x 0600D (albeit also annotated to refer to a revision E)

¹⁰ APP/J1915/W/24/3340497

in April 2024 from a supply of 5.57 years to 5.95 years¹¹. However, whilst the Council did not fail the most recently published Housing Delivery Test¹², in response to the publication of the updated Framework in December 2024 the Council commented that it was accepted that housing need has increased as a consequence of using the new standard methodology.

37. The wider implications of these changes together with a calculation of a detailed position in response have not yet been determined by the Council, but 'it is anticipated' that the current 5 year housing land supply position (5YHLS) would be reduced. It is also anticipated by the Council that any overall decrease in the 5YHLS would not be so significant as to alter the weight to be given to the 5YHLS based upon the pre-December 2024 Framework position.
38. It is not clear however, nor has it been demonstrated, what these anticipated positions are predicated on. Indeed, the appellant's divergent position regarding 5YHLS identifies the Council's previous methodology as being partly responsible for the Council's over-estimate of the 5YHLS position.
39. Given the uncertainty surrounding the Council's submitted position regarding 5YHLS I find the appellant's submissions more persuasive based upon the evidence before me. Thus, on the evidence, I am not satisfied that a 5YHLS exists, albeit that the extent of any such shortfall is also unclear. Whilst the proposal is only for five dwellings, and thus presents only a very modest boost to the 5YHLS position, it nevertheless represents an additional five dwellings where a 5YHLS has not been demonstrated to exist. This therefore carries moderate weight in support of the appeal scheme.

Planning balance and conclusion

40. Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst Hare Street is an acceptable location for new residential development, such development is subject to certain criteria in line with the spatial strategies and approach to development set out by EHDP Policies DPS2 and VILL2 and BCANP Policy HD1. For the reasons I have set out, the appeal scheme would conflict with the spatial strategy of the EHDP as set out by these Policies as the site lies beyond the Hare Street settlement boundary and does not amount to infill development.
41. Furthermore, the appeal scheme would not benefit from the exemptions provided by EHDP Policy GBR2(e) as I consider that the site is only partially capable of being classed as previously developed land. However, even if it were to consist entirely of previously developed land, the Framework is clear that it should not be presumed that the whole of a site should be development. EHDP Policy GBR2(e) is also clear that in such circumstances proposals must be compatible with, and appropriate to, the character, appearance and setting of the site, the surrounding area and the rural area more widely. That would not, for reasons set out, be the case in this instance.
42. However, the Framework is clear that decisions should apply a presumption in favour of sustainable development. It goes on to state that for decision-taking, this means approving proposals that accord with up-to-date development plans without

¹¹ Appendices 3.1 and 3.2

¹² Published 12 December 2024

delay or, where the policies which are most important for the determination of the application are out-of-date, granting planning permission subject to the qualification provided by paragraph 11(d)(i) and (ii).

43. In this particular instance, there are no Framework policies or assets of particular importance as referred to by footnote 7. However, as the Council has not demonstrated that there is a 5YHLS the policies set out above, which I consider to be the most important in determining the appeal, are deemed to be out of date. Therefore, in line with Framework paragraph 11(d) permission should be granted unless any adverse impacts of so doing would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
44. The proposal would result in five additional dwellings which would boost housing supply, albeit only by a limited amount. The appellant is also described as a 'small and medium enterprise housebuilder' (SME), which the Framework recognises as contributing to boosting housing supply. In line with the Framework's aim of significantly boosting the supply of homes this is a matter which carries moderate weight in support of the appeal.
45. The appeal site's location beyond the village settlement boundary of Hare Street is such that residential development would be contrary to the spatial aims of the EHDP and BCANP. Whilst the appeal site is, in part, PDL, I am not persuaded that it is so in its entirety. Even if it were the case that it was entirely PDL, it should not be assumed that the entire site should be developed. Whilst I have concluded that the development plan policies most important to the determination of this application are not up to date, and thus the provisions of Framework paragraph 11(d)(ii) apply, the effect of the proposed development is such that harm would be caused to the character and appearance of the appeal site, the approach to and setting of, Hare Street, and the general built form of Hare Street and its relationship with the surrounding open countryside. This harm would, I conclude, be substantial and would outweigh the more limited benefits that five additional dwellings would provide, and other benefits in the form of development by an SME housebuilder.
46. Having considered all matters raised, and for the reasons set out, harm to character and appearance would arise in the terms described. The proposed development would not amount to sustainable development having regard to Framework paragraph 11(d)(ii) and I therefore conclude that the appeal should be dismissed.

G Robbie

INSPECTOR