



Appeal Decision

Site visit made on 6 May 2025

by **C Walker BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 05 June 2025

Appeal Ref: APP/J1915/W/25/3359994

100 Town Lane, Benington, Hertfordshire SG2 7BT

- 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 Terry Barrs against the decision of East Hertfordshire District Council.
 - The application Ref is 3/24/1677/FUL.
 - The development is for a proposed new dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new dwelling at 100 Town Lane, Benington, Hertfordshire SG2 7BT in accordance with the terms of the application, Ref 3/24/1677/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. A dispute relating to the ownership of the grass verges adjacent to the appeal site has been drawn to my attention. The evidence indicates that in response, the appeal site was amended at application stage to exclude the disputed land, and Certificate B was served on Hertfordshire County Council as Highways Authority, who advise that they maintain the verge at public expense. This has been confirmed by HM Land Registry documents provided. I am satisfied that for the purposes of this appeal, the parties have been able to make representations about the effect of the development, in the interests of fairness and no party has been prejudiced.

Main Issues

3. The main issues in determining this appeal are:
 - whether the appeal site would be a suitable location for the proposed development; and
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

4. Policy DPS2 of the East Herts District Plan 2018 (District Plan) sets out a development strategy for the district. In order to deliver sustainable development, brownfield sites are top of the hierarchy, followed by sites within a number of named settlements, then urban extensions to named areas. At the bottom of the

hierarchy is limited development in the villages. Policy VILL2 of the District Plan sets out that within 'Group 2 Villages' including Benington, limited infill development will be permitted subject to set criteria. This includes that development should relate well to the village in terms of location, layout and connectivity, it is of a scale appropriate to the size of the village having regard to the potential cumulative impact in the locality and does not represent the loss of a significant open space or gap important to the form and/or setting of the village. Policy TRA1 of the District Plan amongst other things, sets out that development should be located in places which enable sustainable journeys to be made to key services and facilities, and to ensure a range of sustainable transport options are available to occupants.

5. The appeal proposes a new dwelling on land between No's 98b and 100 Town Lane. The site forms part of the side garden of No. 100 which has now been separated off from the host dwelling by timber fencing.
6. Both main parties agree that the appeal site lies within the village of Benington and that it constitutes infill development. Indeed, the Council go so far as to state that there is no objection in principle to an infill development here. There is also agreement that the site does not form an important open space contributing to the setting of the village. As a scheme for one dwelling, it is limited and the scale is appropriate to the size of the settlement and I have not been made aware of concerns regarding cumulative effects in this regard.
7. The appeal site is set amongst other dwellings, fronting the south side of Town Lane which benefits from a lit footpath helping to connect the site with the rest of the village. Benington is a settlement that contains a primary school, village hall, recreational ground, church and public house. Whilst the latter is currently closed, it enjoys protection as an Asset of Community Value, indicating its closure may not be permanent. Whilst acknowledging that this range of facilities does not cater for all resident's needs, it nevertheless offers a reasonable range of key facilities accessible on foot that could reduce the need for occupants of the appeal dwelling to travel on a daily basis.
8. Whilst cycling from the site to a wider range of services outside of the village is possible, I acknowledge that the roads to the village are, in places, narrow and undulating. As such it is not probable that cycling would provide a suitable alternative to the private car on a regular basis. However, within a short walking distance of the appeal site is a bus stop that I observed offers public transport between Hertford and Stevenage via bus service no. 38. This service operates 5 times a day, 6 days a week. Whilst the buses are not frequent, the timetable indicates that it would be possible for commuters working in Stevenage to travel by bus. Therefore, I find that it does offer a feasible alternative to the use of the private car in accordance with the expectations of Policy TRA1.
9. I have considered the appeal decisions¹ relating to a site at 1 Whempstead Road, approximately 0.7km south of the appeal site. However, from the evidence before me, there are significant material differences between them and that now before me. No. 1 Whempstead Road is located outside of the village, in the countryside, and could not constitute a limited infill development, unlike the appeal before me. Additionally, three of these appeals related to major residential development of a

¹ APP/J1915/W/21/3288588, APP/J1915/W/22/3303408, APP/J1915/W/22/3303413 and APP/J1915/W/21/3288702 – all dismissed January 2023.

significantly larger scale. Therefore, non are directly comparable to this appeal and I afford them limited weight.

10. In respect of this main issue, I find that the appeal site would be a suitable location for this development of limited scale, which constitutes a limited infill development within a Group 2 village in accordance with Policies DPS2 and VILL2 of the District Plan. I also find that there are some key services and facilities within the village itself and a sustainable transport option is available to offer an alternative to the private car for other amenities and facilities further afield. Therefore, I do not find conflict in respect of Policy TRA1.

Character and appearance

11. This part of Benington village, boasts a variety of house types, styles and scales including single, one-and-half, and two storey dwellings. The host dwelling at No. 100 comprises a one-and-a-half storey dwelling with accommodation in the roof, sat in a wide plot. To the west, No. 98B comprises a modern two storey dwelling with a shallow pitched roof. The plot widths along the southern side of this part of Town Lane are typically narrower than the wider plots on the northern side. The topography of Town Lane falls gently to the west towards the village.
12. The appeal plot would be similar in width and depth to the dwellings immediately to the west, and similar to the remaining plot width for No. 100. Whilst the proposed dwelling would be narrower than the host dwelling, this simply responds to the plot width and is not dissimilar in size or plot placement than the dwellings to the west, which it would be seen in context with. The spacing between the host dwelling and the appeal dwelling would be just short of 1m, but this is not unusual. There are similar separation distances between dwellings on this side of the lane at Numbers 94, 96, 98A and 98B. Consequently, I do not find the siting of the development to appear cramped in relation to its boundaries. Furthermore, the dwellings in wider plots across the lane are seen in a different context, so this is not harmful to the character and appearance of this part of the area.
13. The appeal dwelling has been designed to comprise a one-and-a-half storey dwelling under a shallow pitched roof, with accommodation in the roof-space, orientated with its gable fronting the lane. It has a scale comparable to the host dwelling, although, due to the topography, would be stepped down and subservient to it in the street scene. It has not been designed as a bungalow and therefore it is unnecessary to compare it one, especially as it would not be seen in the same context as a bungalow.
14. The proposed sectional drawing shows the appeal dwelling would sit between the higher one-and-a-half storey host dwelling and a two-storey dwelling at a slightly lower level, but sharing a similar ridge height to it due to land level differences. With a similar shallow pitched roof to the neighbour at No. 98B, I find that the appeal dwelling would adequately respond to its context, respecting the topography and would not compete with either adjacent dwelling in terms of its scale or design, as demonstrated by the street-scene plan. The design is different to other dwellings in the vicinity, but not significantly so. In any event, given the eclectic mix of styles in the area, I consider that the design is sufficiently respectful of local context to not cause any adverse effects on the character and appearance of the area overall.

15. I am mindful of third-party comments concerning the visual effect of the frontage parking area, which the plans show as a bound resin gravel. Noting that this hardstanding would span across both frontages, its effect would be diminished by the presence of the retained grass verges immediately in front, which would soften its appearance, making it acceptable to the street scene.
16. I therefore find that the proposal would not harm the character and appearance of the area and meets the expectations of Policies DES4 and VILL2 of the District Plan. Amongst other things, these policies expect a high standard of design and layout to reflect local distinctiveness and be in keeping with the character of the village.

Other Matters

17. A Grade II listed building at 102 Town Lane lies adjacent to the site. I am mindful of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Noting the separation distance from the appeal site, the intervening property at No. 100, its position around a slight curve in the lane and that the listed building is set on higher ground, I find that the setting of the building would be preserved by this appeal.
18. I note the comments regarding parking and highway safety, amongst other matters. From what I observed on site, the parking arrangement shown on the drawings, immediately in front of No. 100 is not yet in place, which appears to be a source of concern. The Highways Authority confirmed their position at application stage that the existing access and visibility splays are acceptable, and the swept path analysis and parking arrangements addressed previously deficiencies. The Council did not raise concerns relating to parking or highway safety in their decision and I see no reason to disagree. Likewise, The Council have considered the impact on living conditions of adjacent neighbours and found no demonstrable harm. I concur.
19. The Council confirm they are unable to demonstrate a five-year supply of deliverable housing sites in accordance with the National Planning Policy Framework (the Framework). Ordinarily this would warrant the application of paragraph 11(d) ii. of the Framework. However, in this case as I have found no harm and no conflict with the development plan policies, it is not necessary for me to apply this because the appeal is acceptable.

Conditions

20. Where necessary, I have amended the Council's suggested conditions to meet the tests within the Framework, including adding in triggers to ensure that essential elements of development come forward at an appropriate point in time.
21. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.

22. Condition 3 relates to the external materials of the development. The Council's officer report asserts the details shown on the plans are acceptable. However, the plans lack detail including the finished texture and colour of the render and the precise roof tile. In the interests of character and appearance, a condition is therefore necessary.
23. The plans lack some details in respect of both hard and soft landscaping proposals. Condition 4 is reasonable and necessary to ensure that the site is finished in a manner appropriate for the village setting and to ensure that land levels are dealt with appropriately. Condition 5 has been imposed to ensure that the landscaping is provided and then retained for a reasonable period. This will also ensure that the parking provision is in place before the new dwelling is occupied, in the interests of highways safety.
24. Insufficient details of the design and treatment of both the bin and cycle storage facilities have been provided. Therefore, conditions 6 and 7 are necessary in the interests of character and appearance and sustainability.
25. The Council's suggested condition requiring the installation of an electric vehicle charging point is unnecessary, as this is matter required by Building Regulations. I have therefore not imposed it.
26. Condition 8 requires bird and bat boxes to be incorporated into the development. This is necessary to achieve ecological enhancements.
27. Conditions 9 to 11 relate to reducing energy demands, water consumption and emissions from the domestic heating system. The imposition of these conditions is necessary, in order to help meet the Council's ambitions in respect of climate change, ensure efficient use of resources and to ensure adequate air quality for residents.
28. Condition 12 relates to construction activities, limiting the working hours in the interests of protecting the living conditions of neighbours. Controls around dust emissions are disproportionate in the context of one dwelling, where no demolition is necessary and therefore the Council's suggested condition for this is omitted.
29. Finally, the Council request the removal of permitted development rights in relation to certain classes of development. I am mindful that paragraph 55 of the Framework clearly states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification for doing so. I have not been shown that there is a clear justification for removing these rights in order to protect the living conditions of neighbours or the character and appearance. It is therefore unnecessary, and I have not imposed it.

Conclusion

35. For the reasons given above, the scheme would accord with the development plan as a whole and the Framework. Thus having regard to all other matters raised, I conclude that the appeal should be allowed.

C Walker

INSPECTOR

Schedule of Conditions

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

03/J (Proposed Section and Elevations)
01/F (Proposed Floor Plans)
04/D (Visibility)
066/2024/010 Rev P3 (Proposed dwelling car parking swept path analysis)
07/B (Updated Site Plan)
Site Location Plan (unreferenced).
- 3) Notwithstanding the approved plans, prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The details shall include the finish and colour of the render and precise details of the roof tiles. The development shall be carried out in accordance with the approved details.
- 4) Notwithstanding the approved plans, prior to first occupation of the development hereby approved, a scheme of landscaping shall be submitted to and be approved in writing by the local planning authority. The scheme shall include:
 - details of all planting, seeding and/or turfing, schedules of plants, species, planting sizes and densities;
 - details of any retained landscape features;
 - hard surfacing materials;
 - earthworks showing existing and proposed finished levels and/or contours; and
 - details of any means of enclosure, boundary treatments or retaining structures.
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. The hard landscape works, including the laying of hard surfaces, shall be carried out prior to first occupation of the dwelling hereby approved.
- 6) Prior to first occupation of the development hereby approved, full details of the external bin storage facility shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in accordance with the approved details prior to first occupation.

- 7) Prior to first occupation of the development hereby approved, full details of the cycle storage shed shall be submitted to and approved in writing by the local planning authority. Thereafter, the development shall be implemented in accordance with the approved details prior to first occupation.
- 8) Prior to the commencement of any above ground works hereby approved, details of the location and specification of 2no. integrated swift boxes and 2no. integrated bat boxes shall be submitted to and be approved in writing by the local planning authority. The bird and bat boxes shall be installed prior to first occupation of the dwelling in accordance with the approved details and these shall be retained for the lifetime of the development.
- 9) Prior to the completion of the foundations, details of the design, materials and construction of the dwelling to demonstrate how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in winter to reduce energy demand, shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be implemented in accordance with the approved details.
- 10) The development hereby permitted shall not be occupied until the Building Regulations optional requirement of a water consumption rate of no more than 110 litres per person per day has been complied with.
- 11) The domestic heating system installed shall not result in NO_x emissions, unless gas-fired boilers are to be utilised in which situation they must meet a minimum standard of <40 mgNO_x/kWh.
- 12) Construction works, including all site preparation and ancillary activities, shall take place only between the hours of 08:00 to 18:00 on Mondays to Fridays, 08:00 to 13:00 on Saturdays, and not at all on Sundays or Bank / Public Holidays. Vehicles arriving at and leaving the site must do so within these working hours.

END OF SCHEDULE