



Appeal Decision

Site visit made on 21 October 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2025

Appeal Ref: APP/J1915/W/25/3362885

Land Adjacent To 1 South Cottages, Side Hilly, The Ford, Little Hadham, Hertfordshire SG11 2AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by E & J Properties Limited against the decision of East Hertfordshire District Council.
- The application Ref is 3/24/1879/OUT.
- The development proposed is 'erection of a single detached dwelling'.

Decision

1. The appeal is allowed and outline planning permission is granted for erection of a single detached dwelling at Land Adjacent to 1 South Cottages, Side Hilly, The Ford, Little Hadham, Hertfordshire SG11 2AT in accordance with the terms of the application, Ref 3/24/1879/OUT, subject to the conditions in the attached schedule.

Preliminary Matter

2. The appeal relates to an application for outline planning permission. Approval is sought for access, but matters of appearance, landscaping, layout and scale are reserved for future consideration. I have had regard to the plans submitted as part of the application and note the illustrative layout. However, there could be alternative ways to develop the site and I have treated all details apart from those relating to access as illustrative.

Main Issues

3. The main issues are:
 - i) whether or not the development would be in a suitable location having regard to relevant development plan policies and future occupiers' access to services, facilities and sustainable transport modes; and
 - ii) the effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The appeal site is located within the Rural Area Beyond the Green Belt as defined in the East Herts District Plan 2018 ('the DP'). To maintain this area as a valued countryside resource, Policy GBR2 of the DP outlines certain types of development that may be permitted.
5. These include limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use

(excluding temporary buildings) in sustainable locations, where appropriate to the character, appearance and setting of the site and/or surrounding area.

6. The main parties refer to a Certificate of Lawfulness¹ ('the CL') which confirms the lawful use of land on the site for storage of building materials under Use Class B8 of the Town and Country Planning (Use Classes Order) 1987 (as amended). However, although I note a planning permission granted for refurbishment and re-surfacing of a concrete road on the site², I have no details indicating that the main part of the site has been lawfully developed with any permanent structure or fixed surface infrastructure. From the information before me, it would not therefore comprise previously developed land within the definition set out in the National Planning Policy Framework ('the Framework') which includes a requirement that permanent structures or fixed surface infrastructure were lawfully developed.
7. Consequently, the proposal could not be considered as limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) under Policy GBR2 of the DP and the appellant has not argued that it would fall within any of the other types of development that this policy indicates may be permitted. Furthermore, the dwelling would not be on a brownfield site or in any of the locations where Policy DPS2 of the DP indicates that development will occur to deliver sustainable development. The development would therefore be contrary to the approach outlined in Policies GBR2 and DPS2 of the DP.
8. Although outside of the village development boundary, the appeal site is relatively close to Hadham Ford. There is no footway along part of the route, but this is for only a short distance closest to the site and pedestrians would be able to pass along an area used for parking along much of this section. In addition, the speed limit is 30mph at this point, and while I appreciate it was only a snapshot, I observed relatively low levels of traffic with reasonable intervals between passing vehicles which would help to limit potential adverse effects of traffic movements on the pedestrian experience. Furthermore, the rest of the route may lack street lighting, but there are footways, and I consider that these conditions would not be a significant deterrent to future occupiers of the site walking into Hadham Ford.
9. However, there are only limited services available in Hadham Ford and occupiers are unlikely to walk or cycle to access services in larger centres elsewhere given the distances involved and nature of the routes which would involve travel along unlit and narrow roads without footways or cycle lanes. The parties do refer to a bus service in Hadham Ford, but in the absence of details of the routes or frequency of buses, it is unclear that the level of service would be likely to enable regular travel by bus.
10. Overall, these factors mean that opportunities for occupiers of the site to access services and facilities by walking, cycling or public transport would be limited, and I find that they would be likely to be largely reliant on private vehicles. This would be contrary to Policy TRA1 of the DP which sets out that development should primarily be located in places which enable journeys to be made sustainably to key services and facilities to help aid carbon emission reduction.
11. That said, the Framework comments that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and while I have limited

¹ Application ref 3/04/2497/CL

² Application ref 3/20/0916/FUL

details, it appears that there could be some potential for occasional travel by bus. Journeys to reach services in larger centres would also be relatively short which would help to moderate the effect of travel by private vehicle.

12. Moreover, the site was not in active use at the time of my visit, but the appellant advises that if the appeal were to fail, the site would be marketed for sale or rent in accordance with its lawful use established through the CL. Given the potential liability and lack of income generation for a vacant site, I have no firm reason to doubt that this would occur, nor that an occupier would be forthcoming. Having regard to the evidence before me, I am satisfied that there is a more than reasonable prospect of the site being returned to active use for storage, either for building materials or an alternative within Use Class B8, should the appeal fail and I afford significant weight to this as a realistic fallback position.
13. Under the fallback, use of the site for storage would be likely to generate at least some trips and since many would involve transport of materials either to or from the site, I would expect most if not all of these trips to be by private vehicle. I have no firm details of the number of vehicle trips, but I consider that a single dwelling would be unlikely to generate significantly more movements than could reasonably be expected from the authorised use so that effects of the proposal would be slight.
14. In combination, these factors mean that I find adverse environmental effects of trips associated with the proposal would be of very limited magnitude.
15. Drawing these matters together, I conclude that the location of the development would conflict with Policies GBR2 and DPS2 of the DP. The limited access to services, facilities and sustainable transport modes means that the development would also be contrary to Policy TRA1 of the DP and occupiers of the site would have some dependency on private vehicles, albeit that the harm in this regard would be minor.

Character and Appearance

16. The appeal site includes a curved access road from The Ford up to the main part of the site which sits at a much higher land level than the highway behind an area of fairly dense tree cover. At my visit, I observed hardcore to the surface of the main part of the site, but I have no information indicating that this benefits from planning permission and it was otherwise open and free of built development. As part of a wider parcel which predominantly comprises areas of sloping grassland and tree cover with boundaries marked by trees and hedgerows, it contributes to the generally rural character and appearance of the countryside around this part of Hadham Ford.
17. Irrespective of the layout, scale, appearance and landscaping of development, the presence of a dwelling would inevitably result in a reduction in openness and the encroachment of urbanising development in comparison to the site's current generally open and undeveloped condition.
18. Nevertheless, I have noted above that the lawful use of the site for storage of materials represents a realistic fallback position which attracts significant weight. Even if individual items or materials were only stored on the site for a temporary period, they would be likely to be replaced with others and there is no restriction under the CL on the height of storage or the extent of the relevant land that may be covered. It therefore seems to me that storage use could have a significant and

sustained physical presence that would notably diminish openness and the general qualities and appearance of the land. Together with associated activity which could be expected to include comings and goings including by large vehicles, I consider the fallback use would have a marked urbanising influence that would notably diminish the openness and rural qualities of the site.

19. The proposal would result in permanent built form, but while development could be of greater height than stored materials, it could also reduce the potential coverage of the site and provide a tidier appearance. Subject to an appropriate scale, layout and appearance of development at reserved matters and details of landscaping, I consider the proposal would be likely to cause no more than a modest loss of openness relative to the fallback overall. Furthermore, residential use of the site for a single dwelling would not in my view cause any significant increase in the impression of urbanisation or encroachment to the countryside from that which would be likely to occur in association with storage use under the fallback.
20. Moreover, the dwelling would be served by an existing access from The Ford, and the position of the main part of the site at a much higher level to the road and the significant screening along the frontage of the site by vegetation mean that the development would be unlikely to be appreciable in the street scene. There could be some views of the development from the wider surrounding area, including across the valley from the opposite side of The Ford, but these would be likely to be glimpsed given vegetation cover and the topography, and would in many cases be at some distance. Even against the existing condition of the site rather than any fallback, I consider given these factors that the visual impact of development would be very limited and would not meaningfully alter the appreciation of the site within the landscape. The effect would be even more modest against the fallback.
21. For these reasons, I find having regard to the fallback that any impression of encroachment to the countryside would be negligible and I conclude overall that the proposal would not detract from the rural character or appearance of the area or the qualities of the landscape. It would therefore accord with Policies DES2 and DES4 of the DP insofar as they broadly seek development that reflects and promotes local distinctiveness and that conserves or enhances the character and distinctive features of the district's landscape and the character of the site and surrounding area. With regard to the specific circumstances of the site, I am also satisfied that the proposal would be compatible with the character and appearance of the rural area. In this respect, the proposal would accord with requirements within Policy GBR2 of the DP.

Other Matters

22. I note reference in the evidence to previous appeal decisions on the site, including on a proposal for a dwelling which was dismissed in 2004. Since that decision however, the CL has been granted establishing a lawful use on the site and the existing access road with drainage has been constructed. Moreover, the policy context has significantly changed with the DP and Framework both post-dating the previous appeals and the Framework in particular now establishing a requirement for a 5 year supply of housing. These factors represent important material changes in circumstances from the time of the previous appeals which have informed my assessment of the current proposal.

23. The Council has also drawn my attention to examples of proposals for single dwellings which have been dismissed at appeal. However, the decision for 15 Benningfield Road found unacceptable harm to the living conditions of a neighbouring occupier. The decision for 66 Eastwick Road also found harm to neighbouring living conditions and the character and appearance of the area as well as identifying that the development would not be in a suitable location. While these examples demonstrate that a contribution to housing supply does not automatically justify harm or conflict with national or local policies resulting from development, their circumstances are not therefore directly comparable to the appeal proposal which I have considered on its own specific merits according to the evidence before me.
24. As I have noted above, the proposal would utilise an existing highway access. A single dwelling would be unlikely to generate a significant increase in levels of use of the access, and I am satisfied that the development would not result in unacceptable detriment to highway safety.
25. Trees may have been removed from the site, but the Council indicates that these were not protected and the fact that other works may have been carried out on the site without consent in the past is not a factor that alters my assessment of the planning merits of the current proposal.

Planning Balance

26. The Council advises with reference to a recent appeal decision that it is unable to demonstrate a 5-year housing land supply. It has not disputed the appellant's evidence highlighting the identified supply position as being 4.20 to 4.49 years.
27. The lack of a 5-year supply means that the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework is engaged. There are no policies in the Framework that protect areas or assets of particular importance which would provide a clear reason for refusing the development. The presumption therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
28. Although I have not found unacceptable harm to the character and appearance of the area, the location of the dwelling within the Rural Area Beyond the Green Belt would lead to a reliance on private vehicles and would be contrary to Policies GBR2, DPS2 and TRA1 of the DP. Insofar as they seek to actively manage patterns of growth, promote sustainable travel and support a move to a low carbon future, these policies are broadly consistent with the Framework.
29. However, the lack of a 5 year supply of housing indicates that the spatial strategy within the DP is not currently meeting housing needs. As a consequence, the weight that I afford to the conflict with Policies GBR2 and DPS2 on account of the location of the dwelling is reduced. While I have had particular regard to policies in the Framework directing development to sustainable locations, I have also found that adverse environmental effects of trips associated with the proposal in this case would be very minor.

30. On the other hand, the proposal would make effective use of the site to provide a new dwelling, adding to the supply of housing locally. The contribution would be small, but would nevertheless advance the Government's objective outlined within the Framework to boost significantly the supply of housing. In this context and given the current housing supply shortfall, the delivery of housing on the site would be an important benefit and while small in scale, it attracts significant weight.
31. Furthermore, the site may be outside of any existing settlement, but future occupiers would still be likely to offer support for local services in the rural area that could help to sustain their viability, even if travel to reach them was by private vehicle. The small scale of the development and availability of services locally means that the effect would be likely to be very modest. Nevertheless, it would accord with the Framework which outlines that housing should be located where it will enhance or maintain the vitality of rural communities and I afford the resulting benefit moderate weight.
32. The Framework also advises that significant weight should be placed on the need to support economic growth. However, while there would be economic benefits associated with the construction of the development, including spending and employment, these would be likely to be limited in scale and temporary in duration and I afford them limited weight.
33. The lawful use of the site could result in reasonably intense activity with no restriction on hours or use of the access by large vehicles causing noise and disturbance in close proximity to neighbouring dwellings at South Cottages. In contrast, noise and disturbance associated with a single dwelling would be limited, and consistent with nearby residential uses such that I find that the proposal would offer a potential benefit to neighbouring occupiers' living conditions supporting objectives in the Framework for a high standard of amenity.
34. Taking account of all of the above, the modest adverse impacts of the development would not in my judgement significantly and demonstrably outweigh the cumulative benefits when assessed against the policies in the Framework taken as a whole having particular regard to key policies highlighted at its paragraph 11 d) ii. The presumption in favour of sustainable development in the Framework therefore indicates that permission should be granted.
35. Although I find that the proposal would conflict with the development plan when it is read as a whole, the harm would be limited, and would in my assessment be outweighed by material considerations including the Framework which indicate that a decision should be taken contrary to the development plan.

Conditions

36. I have considered suggested conditions against the tests within the Framework. I have made minor amendments where necessary for clarity, brevity or to ensure compliance with the relevant tests.
37. I have attached conditions relating to the submission of reserved matters and the time limits associated with this (1, 2, 3), and a condition specifying the relevant plans (4) for the avoidance of doubt and in the interests of certainty.
38. A condition regarding archaeological investigation (5) is necessary to safeguard heritage assets of archaeological interest, while a condition relating to

contamination (6) is necessary to safeguard health and the environment. Ecological enhancement measures (7) are necessary in the interests of biodiversity.

39. I have also imposed a condition to require details of water efficiency measures (8). This is necessary in the interests of environmental sustainability and to address the requirements of Policy WAT4 of the DP which seeks higher standards than would be required under the Building Regulations. I have however simplified the Council's suggested condition and referred to water consumption which is the term used in Policy WAT4 rather than 'wholesome water'.
40. Further conditions have been suggested relating to boundary treatment, the layout of parking, lighting, plant and machinery protection for trees and how the design, materials and operation of the development would reduce energy demand. To my mind however, these would relate to the layout, scale, appearance and landscaping of the development and so can be addressed in the consideration of future reserved matters applications or through the imposition of conditions on a reserved matters approval. Provision for electric vehicle charging would also be required through the Building Regulations and controls on construction working hours and dust would duplicate other regulatory regimes. These conditions are therefore unnecessary, and I have not imposed them.
41. Given the scale of the development, that it would utilise an existing access and the relationship with nearby dwellings, I consider that conditions suggested by the Highway Authority to require visibility splays and construction of a walkable highway verge outside of the site and conditions suggested by Environmental Health relating to building works would be unnecessary and unreasonable. I have not therefore imposed these conditions.

Conclusion

42. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority within a period of 3 years commencing on the date of this decision.
- 3) The development hereby permitted shall be begun by not later than whichever is the latter of the following dates: (i) the expiration of a period of 5 years commencing with the date of this decision (ii) the expiration of a period of 2 years commencing on the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 3776.LOC.

- 5) No development shall take place until the applicants, or their agent, or their successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until a report detailing the archaeological works carried out and including details of any provision for publication has been submitted to and approved in writing by the Local Planning Authority. Where relevant, publication shall take place in accordance with the approved details.
- 6) No development shall take place until a scheme to deal with contamination of land/ground gas/controlled waters has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include all of the following measures, unless the Local Planning Authority dispenses with any such requirement specifically in writing:
 1. A Phase II intrusive investigation report detailing all investigative works and sampling on site, together with the results of the analysis, undertaken in accordance with BS 10175:2011 Investigation of Potentially Contaminated Sites – Code of Practice (or equivalent standard if replaced). The report shall include a detailed quantitative human health and environmental risk assessment.
 2. A remediation scheme detailing how and when the remediation will be undertaken, what methods will be used and what is to be achieved. A clear end point of the remediation and how this will be validated shall be stated. Any ongoing monitoring shall also be determined.

If during the works contamination is encountered which has not previously been identified, then the additional contamination shall be fully assessed in an appropriate remediation scheme which shall be submitted to and approved in writing by the Local Planning Authority.

A validation report detailing the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the dwelling hereby permitted. Details of any post-remedial sampling and analysis to demonstrate that the site has achieved the required clean-up criteria shall be included, together with documentation detailing what waste materials have been removed from the site.
- 7) No development above proposed ground level shall take place until details of the location and specification of 2no. integrated bird boxes and 2no. integrated bat boxes have been submitted to and approved in writing by the Local Planning Authority. The boxes shall be installed prior to the first occupation of the dwelling hereby permitted in accordance with the approved details and thereafter retained.
- 8) The dwelling 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 and evidence of compliance has been submitted to and approved in writing by the Local Planning Authority.

End of Schedule