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# Appeal Decision

Site visit made on 30 November 2021

**by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18 March 2022**

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**Appeal Ref: APP/X1925/W/21/3274409**

**Nup End Farm House, Nup End, Old Knebworth SG3 6QJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr W Bly of Bly Developments Ltd against the decision of North Hertfordshire District Council.
  - The application Ref 20/2109/FP, dated 18 September 2020, was refused by notice dated 22 January 2021.
  - The development proposed is the erection of one 4-bed and two 3-bed detached dwellings including alterations to existing access.
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## Decision

1. The appeal is allowed, and planning permission is granted for the erection of one 4-bed and two 3-bed detached dwellings including alterations to existing access at Nup End Farm House, Nup End, Old Knebworth SG3 6QJ in accordance with application Ref: 20/2109/FP, dated 18 September 2020 and the plans submitted with it and subject to conditions in the attached schedule.

## Preliminary Matters

2. For clarity, I have taken the name of the appellant from the appeal form as it is more precise.
3. The Government published the revised National Planning Policy Framework on 20 July 2021 (the Framework). The main parties have had an opportunity to comment on the significance of the changes.
4. The parties have referred to policies contained within the emerging North Hertfordshire District Council Local Plan 2011-2031 (the emerging LP). Given the stage of preparation and the degree of consistency with the Framework, I attach significant weight to the emerging policies. Notwithstanding this, the starting point for determining this appeal remains the North Hertfordshire District Council – District Local Plan No.2 with Alterations 1996 (saved policies 2007) (Saved DLP).
5. Saved DLP Policy 2 is broadly consistent with the Framework. However, saved DLP Policy 3 does not accurately reflect current national Green Belt policy and is consequently not consistent with the Framework. Therefore, I have not referred to saved DLP Policy 3 in the determination of this appeal and have instead used the wording from the Framework. Additionally, the Council has referred to emerging LP Policy D1 in its reason for refusal, but I do not consider this policy to be relevant to this appeal as it relates to sustainable design.

## Main Issues

6. The main issues are:

- i. whether the proposed development is inappropriate development in the Green Belt; and
- ii. whether the proposed development would provide a suitable location for housing having regard to the accessibility of services and facilities.

## Reasons

### *Inappropriate development in the Green Belt*

7. Paragraph 149 of the Framework provides that the construction of new buildings should be regarded as inappropriate subject to exceptions. One exception to this is Paragraph 149 e) limited infilling in villages, which the appellant has referenced in his submission. The terms “limited” and “infilling” are not defined in the Framework. Additionally, in respect of limited infilling in villages as an exception, the definition of “village” is a matter of judgement as it is not defined within the Framework either.
8. My attention has also been drawn by the appellant to a judgment<sup>1</sup> (the judgment), which I have noted. I consider this to be relevant in the determination of this appeal, and form a material consideration, which I give significant weight. The judgment found, amongst other things, that the Inspector was required to consider whether, as a matter of fact on the ground, the site appeared to be in the village. Furthermore, it advised the physical circumstances of a site and its relationship to a settlement are more relevant than a designated village boundary in determining whether a site can be considered to be infill development.
9. Additionally, the appellant has drawn my attention to a number of planning applications and a plethora of appeal decisions<sup>2</sup>, which I have noted. Particular attention has been drawn by the appellant to the planning applications for a detached dwelling (20/02474/FP) and the conversion of a water tower (20/02911/FP). I consider both of these approved planning applications to form material considerations, in the determination of this appeal, as they are in the vicinity of the site. However, the site off Slip Lane is of particular relevance, as it was considered to form part of Old Knebworth and is in proximity of the proposed development.
10. Both parties acknowledge that the site is not located within a settlement boundary, and I note the dispute between the parties on whether the appeal site is located within Old Knebworth. The main area of Old Knebworth is located in a north-easterly direction of the site. The site is located within a number of properties, comprising residential and commercial uses. Whilst there are parcels of open land between the site and the main part of the village, the extent of the gaps in the built environment are not excessive.
11. Furthermore, parcels of open land are evident in other parts of Old Knebworth, and Park Lane has a continuous 30mph speed limit for the section of road that

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<sup>1</sup> Wood v Secretary of State for Communities and Local Government [2015] EWCA Civ 195 (09 February 2015)

<sup>2</sup> APP/X1925/W/21/3273701; APP/B1930/W/203265925; APP/B1930/W/203265926; APP/M1520/W/20/3246788; APP/A0665/W/3247387; APP/P2365/W/19/3235741; APP/P3040/W/19/3224712; APP/B5480/W/18/3200843; APP/P1940/W/17/3187494

runs past the site, continuing to, and then through the main area of Old Knebworth. There is little doubt to the existence of Nup End. However, due to a distinct lack of transition in the built environment, the site has a very close relationship with Old Knebworth as a settlement, forming part of its character as a village location. Additionally, as the site forms part of the Old Knebworth Conservation Area (the OKCA), this reinforces the synergy between the site and Old Knebworth, albeit not visually.

12. Whilst noting the concerns raised by CPRE Hertfordshire, I consider that having regard to the position and nature of the site, the proposed development can be considered to be physically and visually related to Old Knebworth, to comprise limited infilling in a village. Therefore, the construction of the proposed development in this location should not be considered to constitute inappropriate development in the Green Belt as it would comply with the exception at paragraph 149 e) of the Framework. Consequently, I conclude that the proposed development complies with the Green Belt aims of saved DLP Policy 2, emerging LP Policy SP5 and the requirements of the Framework.
13. As I have not found that Green Belt harm would arise in this case, it is not necessary to consider the effect of the proposed development on Green Belt openness. Additionally, the demonstration of very special circumstances is not required to make the proposed development acceptable.

#### *Suitable location for housing*

14. I do not consider the site to be isolated in the context of paragraph 80 of the Framework, given its proximity to other properties. Although, it would appear highly likely that future occupiers would be more reliant on the use of a private motor vehicle. I acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas and that development in one village may support services in a village nearby. I also accept that the proposed development is unlikely to generate significant vehicle movements. Additionally, some services are present in the main area of Old Knebworth a short distance away, easily accessible through walking or cycling. A section of Park Lane forms part of the Great North Way (Route 12) cycleway (the GNW), which then travels along Old Knebworth Lane towards Stevenage. The GNW also travels along Slip Lane, leading to Rabley Heath and Codicote.
15. My attention has been drawn towards a local bus service (No's 44 and 45), where a bus stop is located a short distance from the site. I am informed that this service provides access to Luton and Stevenage, where a larger range of shops and services could be accessed. I have not been informed of any reliability issues of these bus services and therefore consider the site to have an alternative mode of transport to the private car. Although, I accept that the rural nature of the service is likely to result in some imitations. Nonetheless, I am satisfied that a variety of transport modes would be available to future occupiers to service their day-to-day requirements.
16. I find that the proposed development would accord with the overall sustainable development strategy aims of emerging LP Policy SP1. As Old Knebworth is listed as a Category B village and the proposed development amounts to limited infilling, the scheme accords with the settlement hierarchy aims of emerging LP Policy SP2. Furthermore, due to the above findings, the location of the proposed development accords with the sustainable transport aims of emerging LP Policy SP6 and the requirements of the Framework, particularly

paragraphs 79 and 105. Consequently, I conclude that the site would represent a sustainable location for housing.

### **Other Matters**

17. There is agreement between the parties that the development is not considered to result in any harm to the significance of the heritage assets<sup>3</sup>. In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses.
18. I have also had regard to Section 72 (1) of the Act, which sets out that in the exercise of planning functions with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the area. In both instances, I agree with the Council's observations and in the absence of substantive evidence to the contrary, I find that the proposed development would conserve the heritage assets in a manner appropriate to their significance, in line with the Framework.
19. Additionally, I have had regard to the concerns of local residents and Codicote Parish Council, including reference to living conditions (particularly overlooking and loss of privacy), character and appearance, waste and water drainage (utilities) and highways safety, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.

### **Conditions**

20. The Council has suggested conditions which I have considered, making amendments and minor corrections, where necessary, to ensure clarity and compliance with the tests contained within Paragraph 56 of the Framework and the Planning Practice Guidance.
21. In addition to conditions relating to the time limit for implementation, for reasons of certainty a condition requiring the development to be undertaken in accordance with approved plans is necessary. Materials and landscaping conditions are necessary in the interests of the character and appearance of the appeal site and surrounding area.
22. Pre-commencement conditions relating to the access / carriageway, Construction Traffic Management Plan are all reasonable and necessary in the interest of highway safety. A pre-commencement condition for a Construction Method Statement is reasonable and necessary in the interest of highway safety and the living conditions of neighbouring occupiers.  
A pre-commencement condition is reasonable and necessary in relation to contamination and the interests of future occupiers.
23. A pre-occupation condition is reasonable and necessary for the installation of an electric vehicle charging point at all dwellings to ensure that alternative

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<sup>3</sup> The OKCA / Nup End Farm House, which is Grade II listed.

methods of travel are available to future occupants of the proposed development. A pre-occupation condition is reasonable and necessary surrounding the first 10 metres of the access for highway safety. Finally, a pre-occupation condition is reasonable and necessary surrounding the installation of obscure glazing in some of the proposed windows, to ensure that the living conditions of neighbouring occupiers are not harmed.

24. I have not included a condition to withdraw permitted development rights on the proposed development. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Permitted development is development for which the principle has already been granted by secondary legislation, and there are no restrictions for domestic extensions or development within the curtilage of a dwelling located within a Green Belt. In this instance, it would not be reasonable or necessary to impose such a condition restricting the future exercise of permitted development rights.

### **Planning Balance and Conclusion**

25. The Framework does not change the statutory status of the development plan as the starting point for decision making and planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
26. I have concluded that the proposed development does not amount to inappropriate development in the Green Belt. There is also an absence of other harm arising from the scheme, including the location of the site with regards to its sustainability. Also, I have not found conflict with the requirements of the Framework. Therefore, I am also satisfied that subject to the imposition of appropriate conditions, there would be no harm with respect to any other matters.
27. The provision of what is likely to be family homes would generate additional social benefits. In addition, there would be economic benefits for the locality, both during the construction phase and resultant occupation of the dwellings. Furthermore, the proposed development would make a modest, but important contribution to the Council's 5-year housing land supply, where a supply of 1.47 years can only be demonstrated. Overall, I consider that there would be no adverse effects resulting from the proposed development that would significantly or demonstrably outweigh my findings on the main issues.
28. For the above reasons, I conclude the appeal should be allowed.

*W Johnson*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

#### **Time limit**

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.

## **Approved drawings**

2) The development hereby permitted shall be carried out in accordance with the following approved plans: BLYDNR-1-5-001A; BLYDNR-1-1-002A; BLYDNR-1-1-003B; BLYDNR-1-2-001A; BLYDNR-1-2-002A; BLYDNR-1-2-003A; BLYDNR-1-3-001A; BLYDNR-1-3-002A and BLYDNR-1-3-003A.

## **Pre-commencement**

3) Prior to commencement of the approved development, details and / or samples of materials to be used on all external elevations of the development hereby permitted shall first be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.

4) Prior to commencement of the approved development, the following landscape details shall first be submitted and approved in writing by the local planning authority:

a) which, if any, of the existing vegetation is to be removed and which is to be retained;

b) what new trees, shrubs, hedges and grassed areas are to be planted, together with the species proposed and the size and density of planting;

c) the location and type of any new walls, fences or other means of enclosure and any hardscaping proposed;

d) details of any earthworks proposed

The approved details of landscaping shall be carried out before the end of the first planting season following either the first occupation of any of the buildings 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 during the next planting season with others of similar size and species.

5) Prior to commencement of the approved development, detailed engineering drawings of all highway works must first be submitted to and approved in writing by the Highway Authority. Development shall be carried out in accordance with the approved details / samples.

6) Prior to commencement of the approved development, a Construction Traffic Management Plan must first be submitted to and approved in writing by the local planning authority in consultation with the Highway Authority. The Construction Traffic Management Plan shall include construction vehicle numbers / routing. Thereafter, the construction of the proposed development shall only be carried out in accordance with the approved Plan.

7) Prior to the commencement of the approved development, a Construction Method Statement shall first be submitted and approved in writing by the local planning authority in consultation with the highway authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Statement. The Construction Method Statement shall address the following matters:

a) Phasing plan for the work involving the new access.



- b) Operation times for construction vehicles.
- c) Construction and storage compounds (including areas designated for car parking).
- d) Siting and details of wheel washing facilities.
- e) Cable trenches.
- f) Foundation works.
- g) Substation/control building.
- h) Cleaning of site entrance and the adjacent public highways.
- i) Disposal of surplus materials.

8) Prior to the commencement of the approved development, an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall be submitted to, and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority.

### **Pre-occupation**

9) Prior to first use and occupation, each of the 3 proposed new dwellings shall incorporate an Electric Vehicle (EV) ready domestic charging point, which shall be maintained and retained for the life of the development.

10) Prior to first use and occupation, the development hereby permitted, proposed access must be re-constructed for the first 10 metres from the existing carriageway, where the gradient shall not be steeper than 1 in 20.

11) Prior to first use and occupation, the first-floor windows on the side elevations of the proposed dwellings on Plot B and Plot C shall be obscure glazed. Details of the type of obscured glazing shall first be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall then be retained and maintained for the life of the development.

**\*\*End of Schedule\*\***