



Appeal Decision

Site visit made on 10 August 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th September 2022

Appeal Ref: APP/X1925/W/22/3290692

Meadow View, Loves Lane, Ashwell SG7 5HZ

- 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 Deo against the decision of North Hertfordshire District Council.
 - The application Ref 21/01745/FP, dated 3 June 2021, was refused by notice dated 2 August 2021.
 - The development proposed is the erection of a single dwelling, including access, landscaping and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a single dwelling, including access, landscaping and ancillary works at Meadow View, Loves Lane, Ashwell, SG7 5HZ in accordance with the terms of the application, Ref 21/01745/FP, dated 3 June 2021, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The legal basis for decision making is the North Hertfordshire District Council – District Local Plan No.2 with Alterations 1996 (saved policies 2007) (SLP). The parties have referred to policies contained within the emerging North Hertfordshire District Council Local Plan 2011-2031 (ELP). Given the stage of preparation and the degree of consistency with the Framework, I attach a degree of weight to the emerging policies.
3. I note that the decision notice refers to Policy TP1 of the ELP. The Council has since confirmed that the reference should be Policy T1. I do not consider that any party would be unfairly prejudiced by this and consequently I have had regard to this policy in my decision making.

Main Issue

4. The main issue is whether the proposal is in a suitable location for housing, with regard to the spatial strategy of the development plan and accessibility.

Reasons

5. The appeal site comprises amenity space associated with Meadow View, Loves Lane. The property is bordered by a thick screen of vegetation and is well screened from the highway and surrounding area. At my site visit I observed that Loves Lane is a single track lane with no pedestrian footpath. During my early-afternoon site visit there was a very light flow of traffic on Loves Lane. Whilst a snapshot in time, there is nonetheless nothing in the evidence before

me to indicate those observations are atypical of the area. The site lies within the Rural Area beyond the Green Belt, as defined by SLP Policy 6. This policy, and ELP Policy CGB1, control new development in this area, with planning permission for new residential development being limited to a closed list of exceptions. A market residential dwelling would fail to meet any of the exception criteria set out in these policies.

6. The Framework states that policies and decisions should play an active role in guiding development towards sustainable solutions and acknowledges that opportunities to maximise sustainable transport will vary between urban and rural areas, and this should be taken into account in decision-making¹.
7. The site is approximately 1 mile from the nearest village, Ashwell, which would provide the necessary services for day-to-day living. This is not a significant distance to travel to services within a rural area, although I acknowledge that such journeys are more likely to be undertaken by private vehicle than by walking or cycling. However, it is to be expected, as the Framework indicates, that some travel by private vehicle is likely in rural areas such as this and Ashwell is not so distant that long journeys would occur. Moreover, the distances involved do not preclude some journeys being undertaken on foot or by cycle and the site cannot be considered isolated. Whilst routes to nearby settlements would include single track lanes with no pedestrian facilities, traffic levels along these routes would appear to be low and I have no evidence before me that these routes would be unsuitable for such journeys. Whilst there are no apparent opportunities to use public transport from this location, the addition of a small single dwelling with limited occupation would not significantly add to the journeys that already occur from other nearby dwellings.
8. The proposed dwelling would be well contained within the well screened domestic setting of Meadow View and would not physically encroach into the surrounding countryside. The site would relate well to existing dwellings on Loves Lane. Physical and visual separation between the site and the nearest settlement, Ashwell, is such that the proposed dwelling would not result in the expansion of this nearby village. The scale of the building would be comparable to nearby dwellings and the design would reflect that of the nearby properties and the rural site setting. Thus, any effects on the character and appearance of the countryside and the surrounding area would be limited.
9. I accept that the proposal does not meet the terms of criteria i) to iv) of SLP Policy 6, which controls development within the Rural Area beyond the Green Belt. The policy says that development will 'normally' only be allowed if it meets these criteria. However, I have found in my reasoning above that the proposal would be compatible with the stated objective of SLP Policy 6, which is to maintain the existing countryside and villages and their character. Hence, regardless of the current lack of housing supply, I find the proposal to be in accordance with the objectives of the currently adopted development plan. Although ELP Policy CGB1 does not carry full weight in my decision as it is not formally adopted, it seems to me that the proposal would not undermine the general thrust of that emerging policy, which is essentially similar to SLP Policy 6. I note that the Council also quote SLP Policy 7 in their decision notice.

¹ Paragraph 105

However, as this relates to housing within villages it is not directly applicable in this case.

10. Furthermore, future occupants would have opportunities to access facilities and services by sustainable modes of travel in nearby Ashwell. In this respect, the location would be suitable for the proposed development and no material harm would result for the reasons given above. I therefore find no conflict with those aims of emerging ELP Policies SP1, SP6, D1 and T1 which seek to maintain the role of key settlements and encourage development in locations which enable sustainable journeys.

Other Matters

11. I have found that the individual characteristics of this particular site would enable the proposal to be accommodated without harm. However, I see no reason to suppose that my decision in this case would set a precedent. Differing circumstances, and the potential for cumulative harm, would represent matters to be considered were other similar proposals to be advanced elsewhere in the future.

Conditions

12. Planning permission is granted subject to the standard three year time limit condition for implementation. In addition, it is necessary to specify the approved plans in the interest of certainty. Conditions relating to the construction of the parking and turning areas are necessary in the interests of highway safety.
13. In order to ensure a satisfactory appearance I have included conditions to control the external materials of the development (which need not delay any development) and to secure tree works. A pre-commencement condition (to which the appellant has agreed) relating to a preliminary environmental risk assessment is necessary to ensure that any contamination affecting the site is dealt with appropriately. A condition relating to the provision of bin storage facilities is necessary to ensure the provision of this residential facility. I have imposed the suggested condition relating to the electric car charging point in order to support more sustainable living.
14. A condition has been put to me which would restrict Permitted Development rights for the dwelling. The PPG states that "Area-wide or blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity." I have not been presented with compelling reasons why permitted development rights should be withdrawn in this case. I have amended the trigger point of the condition put to me relating to the approval of materials as I see no reason why such details cannot be submitted prior to development above foundation level.

Conclusion

15. For the above reasons I conclude that the appeal should be allowed subject to the conditions below.

Nichola Robinson

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: Nos 18876/100, 18876/101, 18876/102, 18876/103, 18876/1000, 18876/1001 and 4226.Loves.WH.TCP.
- 3) No development hereby permitted shall take place above foundation level until full details of all external facing materials have been submitted to and approved in writing by the local planning authority. The development hereby permitted shall be carried out in accordance with the details thus approved, which shall thereafter be retained.
- 4) The new dwelling shall not be occupied until a scheme of electric car charging points has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out and operated in accordance with the approved scheme.
- 5) The tree works proposed under plan ref 4226.Loves.WH.TCP shall be implemented on site in the first planting season following the completion of the development and shall be maintained thereafter.
- 6) (a) No development approved by this permission shall be commenced prior to the submission to, and agreement of the Local Planning Authority of written information allowing a preliminary environmental risk assessment to be undertaken, which allows the creation of a Conceptual Site Model which indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites), with a view to determining the presence of contamination likely to be harmful to human health, and the built and natural environment.

(b) If the Local Planning Authority is of the opinion that the report which discharges condition (a), above, indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until a Site Investigation (Phase II environmental risk assessment) report has been submitted to and approved by the Local Planning Authority which includes:
 - (i) A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and;
 - (ii) The results from the application of an appropriate risk assessment methodology
(c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement report; if required as a result of (b), above; has been submitted to and approved by the Local Planning Authority.

(d) This site shall not be occupied, or brought into use, until:
 - (i) All works which form part of the Remediation Method Statement report pursuant to the discharge of condition (c) above have been fully completed and if required a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.

- (ii) A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the Local Planning Authority.
- (e) Any contamination, other than that reported by virtue of condition (a) and (b), encountered during the development of this site shall be brought to the attention of the Local Planning Authority as soon as practically possible; a scheme to render this contamination harmless shall be submitted to and agreed by the Local Planning Authority and subsequently fully implemented prior to the occupation of this site.
- 7) The development shall not be first occupied until the properly consolidated and surfaced parking and turning areas have been provided within the curtilage of the site as identified on drawing number 18876/1001. The parking and turning spaces should be free from obstruction and available for use at all times.
- 8) The dwelling shall not be first occupied until the bin storage/collection point has been provided. The bin storage/collection point shall be located within 15 metres of the road and shall thereafter be retained.