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## Appeal Decision

Site visit made on 28 March, 2017

**by S. J. Buckingham, BA (Hons) DipTP MSc MRTPI FSA**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 7<sup>th</sup> June, 2017**

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**Appeal Ref: APP/X1925/W/16/3165952**

**Barkway Golf Club, Nuthamstead Road, Barkway, SG8 8EN**

- 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 Geoff Cannon against the decision of North Hertfordshire District Council.
  - The application Ref: 16/01870/1 dated 25 July, 2016 was refused by notice dated 4 October, 2016.
  - The development proposed is erection of a detached two-storey four-bedroomed house with attached double garage.
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### Decision

1. The appeal is allowed and planning permission is granted for erection of a detached two-storey four-bedroomed house with attached double garage at Barkway Golf Club, Nuthamstead Road, Barkway, SG8 8EN in accordance with the terms of the application, Ref: 16/01870/1 dated 25 July, 2016 and the plans submitted with it, subject to the conditions set out in the schedule to this decision.

### Preliminary matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

### Main Issues

3. The main issues in this case are whether; having regard to national and development plan policies, the development would comprise sustainable development with particular respect to its effect on the character and appearance of the area.

### Reasons

#### *Character and Appearance*

4. Barkway Village is a linear settlement stretched out along the High Street (the B1368). The appeal site sits outside and to the south of the settlement boundary, close to the junction of the B1368 and Nuthampstead Road. It is an
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area of thorny scrub with a high and thick hedgerow on its boundary with Nuthamstead Road.

5. The proposal would create an averagely sized house with an attached double garage, intended to provide staff accommodation for the manager of the golf club. It would set in a large garden area and located behind a small group of large detached houses with generous gardens. Although the proposed house would be some distance from the main area of linear development along the High Street, and would form a very minor lateral extension to the settlement, these are not an exceptional forms of development within the village. It would therefore be a very minor extension of the settlement at its margins. It would also, due to its location in the extreme north-west corner of the Barkway Park Golf Course, form a very small intrusion into the open land of the golf course.
6. It appears to me therefore that the appeal proposal would have a very limited effect on the established character of the settlement or the countryside, which would not cause harm. It would not therefore conflict with saved Policy 6 of the North Hertfordshire District Council District Local Plan No. 2 with Alterations 1996 (the LP) which seeks to maintain the existing countryside and villages and their character.

*Whether the development would comprise sustainable development*

7. The site is outside the identified village boundary of Barkway in a rural area beyond the Green Belt. Local Plan policy seeks to resist development within such areas unless it can be shown to be necessary to meet a defined need. While the appellant has suggested that "special circumstances" apply in this case, it does not meet the circumstances set out in saved Policy 6 of the LP.
8. However, it is not disputed that the Council cannot demonstrate a five year deliverable supply of housing land, and I have therefore been mindful of the provisions of paragraphs 14 and 49 of the National Planning Policy Framework (The Framework) in this respect. The Framework generally encourages the supply of new housing, and states that housing applications should be considered in the context of the presumption in favour of sustainable development.
9. The appeal dwelling would be within a cluster of existing buildings which includes a garage and pub to the north, Howletts Farm to the north east, and within walking distance of the Golf Club. I conclude therefore that it would not be isolated within the countryside, and that its occupiers would be likely to make some contribution to the viability of the adjacent services and facilities and to others within the village, and to the vitality of the settlement as a whole.
10. There is no footpath on Nuthampstead Lane, but one runs from close by into the village centre, which is at a walkable distance from the site. There are bus stops in the vicinity, with access to a weekly bus service between Bishops Stortford and Royston. It appears to me likely therefore that future occupiers of the dwelling would be reliant on private car journeys for much of the time to access a range of services and facilities. However, the additional trips generated by a single dwelling would be unlikely to generate movements sufficient to conflict with the aims of the Framework to minimise the need to travel and maximise the use of sustainable transport modes. Furthermore, as

the house is intended to provide staff accommodation for the golf club, access to employment could be obtained on foot.

11. As the proposal would provide an additional dwelling, it would have an effect on the shortfall in housing land supply, albeit a limited one. However, in the light of this shortfall, and because it would also meet the aims of paragraph 55 of the Framework, I therefore find considerable weight in favour of the proposal. While not in compliance with Policy 6 of the LP, I have also concluded that the proposed house would not harm the character and appearance of the settlement or the countryside. It would not, either, give rise to significant levels of private car journeys. As, in accordance with Paragraph 14 of the Framework, these effects do not therefore significantly and demonstrably outweigh the benefits, I conclude that the balance lies in favour of allowing the appeal.
12. Although the Council mentions a number of appeal decisions where the application of this balance has led to the opposite conclusion, no details of these have been put before me.

### **Other Matters**

13. It has been suggested that the site has value as a wildlife habitat, but no convincing evidence has been put before me to confirm this. Concern has been expressed by third parties that the dwelling would set a precedent for development in other locations outside settlement boundaries. However, this is a generalised rather than a specific fear, since each proposal has to be considered on its merits. The existence of a permissive path through the development site is not a matter for determination through the planning system. While the site was not identified for housing as part of the emerging local plan, the presumption in favour of sustainable development set out in the Framework means that development is not precluded outside such sites. Issues of security or surveillance are operational matters for the Golf Club and not to be determined through the planning system.

### **Conclusion**

14. For the reasons given above, therefore, and taking into account all other matters raised, I conclude that the appeal should be allowed.

### **Conditions**

15. The Council has provided a list of conditions, which the appellant has had the opportunity to consider. I have taken these conditions, and the relevant tests into account. In the interests of clarity, a condition is attached requiring the implementation of the scheme in accordance with the approved plans. In the interests of protecting the character and appearance of the area, a condition is attached requiring details or samples of materials to be used in external elevations.
16. I have added conditions relating to the width, surfacing and gradient of and gates to the access to the site from the highway, to visibility splays, and to the vehicle turning area, as they appear to me to be reasonable and necessary in the interests of protecting highway safety. Evidence of a small risk of ground contamination has been put before me, and I have, accordingly added a condition requiring the completion of a risk assessment, and any remedial action arising from it, prior to the beginning of development.

17. The Framework is clear that the use of planning conditions to restrict national permitted development rights should not be used unless there is a clear justification to do so, and that such conditions will rarely pass the test of necessity. No such justification has been put before me, and I can see none, and I have not, accordingly added such a condition.
18. No justification has been put before me for the requirement for the development to provide an electric vehicle charging point, including any policy justification or details of how it would offset the adverse impacts of the operational phase of the development on local air quality. It does not therefore appear to me to be reasonable. I have not added such a condition.

*S J Buckingham*

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 plans: CBSD/OP/GC/1, 2, 3, 4 & 7.
- 3) No development shall commence until details or samples of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details or samples.
- 4) The access shall be 3.6 metres wide and shall be constructed in a hard surfacing material for at least the first 6 metres from the edge of the carriageway. The gradient of the access shall not be steeper than 1 in 20 for at least the first 6.0 metres from the edge of the carriageway, and any gates provided to the access shall be set back a minimum of 6 metres from the edge of the carriageway and shall open inwards to the site.
- 5) Before the access is first brought into use, vehicle to vehicle visibility splays of 2.4 metres by 215 metres in both directions, within which there shall be no obstruction to visibility between 0.6 metres and 2.0 metres above the carriageway level, shall be provided and permanently maintained. These measurements shall be taken from the intersection of the centre line of the permitted access with the edge of the carriageway of the highway respectively into the application site and from the intersection point along the edge of the carriageway.
- 6) Prior to the occupation of the approved dwelling, the proposed turning area as identified on drawing number CBSD/OP/GC/2 shall be provided, and it shall be permanently retained as provided thereafter.
- 7) No development shall commence until 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 have been 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, including timescale, 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 the measures shall be implemented prior to the occupation of the site.