



Appeal Decision

Site visit made on 4 January 2021

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th April 2021

Appeal Ref: APP/J1915/W/20/3258799

Land adjoining Spring Paddocks, East End, Furneux Pelham, Hertfordshire SG9 0JT

- 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 & Mrs Collins against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0705/FUL, dated 23 March 2020, was refused by notice dated 18 June 2020.
 - The development proposed is described as 'erection of three-bedroom dwelling and cart lodge'.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of a three-bedroom dwelling and cart lodge at Land adjoining Spring Paddocks, East End, Furneux Pelham, Hertfordshire SG9 0JT, in accordance with the terms of the application, Ref: 3/20/0705/FUL, dated 23 March 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue in this appeal is whether the appeal site is a suitable location for the proposed development, with particular reference to the spatial strategy for housing in the development plan.

Reasons

3. Policy DPS2 of the East Herts District Plan 2018 (DP) sets out a broad development strategy in the form of a hierarchy. Development is directed to sustainable brownfield sites in the first instance followed by sites in urban areas, urban extensions and then infilling in villages. The other policies in the development plan flow from this overarching strategy.
4. Policies VILL 1-3 categorise the villages in the district into three groups depending on their size and the facilities and services available. The amount of development directed to each village flows from the group it is put in, with Group 1 villages likely to see more growth than Group 2 and 3 villages.
5. Furneux Pelham is a Group 2 village where limited infill development is permitted subject to criteria. However, the appeal site is located outside the settlement boundary of this village and is separated from it by open intervening countryside comprised of fields and hedges. As such, the appeal site is not within Furneux Pelham.

6. Instead, the appeal site is on the periphery of the small loose knit but discernible hamlet of East End, which is focussed on a small green in the vicinity of East End House. East End is therefore a Group 3 village because it is a settlement that is not identified as either a Group 1 or 2 village. Policy VILL3 of the DP permits limited infill development in Group 3 villages if identified in an adopted Neighbourhood Plan (NP). I have not been directed to any adopted NP and therefore the proposal does not glean support from Policy VILL3.
7. However, the appeal site is located in the Rural Area Beyond the Green Belt (the 'Rural Area') and therefore Policy GBR2 is relevant. It lists several types of development that will be permitted in the Rural Area in addition to that set out in the VILL policies, provided they are compatible with the character and appearance of the area. The Council have not alleged that the proposal would harm the character and appearance of the area and I see no reason to disagree. The types of development permitted by Policy GBR2 include limited infilling or the partial or complete redevelopment of previously developed land in sustainable locations. There is an open grass paddock to the east of the appeal site and therefore the proposal would not amount to infilling.
8. In considering whether the appeal site is previously developed land (PDL), the Council have directed me to the definition of PDL in the National Planning Policy Framework (the 'Framework'). This defines PDL as land which is or was occupied by a permanent structure, including the curtilage of the developed land. The appeal site used to be part of a touring caravan site, but there is nothing of substance before me to suggest there were any permanent structures associated with this use. Therefore, the evidence before me indicates the previous use did not involve PDL.
9. The appeal site became residential garden following the grant of planning permission. An outbuilding has been constructed on this land and sits adjacent to the appeal site, the western boundary of which follows no physical feature. The appeal site is closely mown grass surrounded by, and including, ornamental planting and fencing. It has the appearance of a domestic garden indistinguishable from the original garden of Spring Paddock. The appeal site is therefore attached to/near the house, in the same ownership as it and together they form one enclosure. As such, the appeal site is part of the curtilage of Spring Paddock, which is a permanent building.
10. In reaching this view I have considered the Council's submissions in respect of *Dyer v Dorset CC*, where the curtilage of a residential property was described as a small area forming part and parcel of the house which it contained or to which it was attached. The garden of Spring Paddock, including the appeal site, is not a large parcel of land and is not of an unusual size for a dwelling in a rural setting or of an extent untypical of the area and hamlet. It is also attached to and about Spring Paddock, which it contains. The garden area, including the appeal site, can therefore be considered to form part of the curtilage of the dwelling for the purposes of my assessment when having regard to the legal case referred to by the Council.
11. The Council have stated that although on the periphery of a hamlet, the appeal site is not in a built-up area. I share this view because there are fields and paddocks immediately adjoining most of the boundaries of Spring Paddock. There is no contradiction in my finding that East End is a settlement but not a

- built-up area, because the latter to my mind is a settlement type with a denser, more tight-knit pattern of development than is evident in East End.
12. The significance of the above is that the appeal site is land within the curtilage of a permanent building and is therefore PDL. The site's current use and status as residential garden land does not prohibit this finding because the definition of PDL in the Framework states that it is only residential gardens in built up areas that are excluded from the definition of PDL.
 13. Thus, the acceptability of the proposal in the context of Policy GBR2 turns on whether the appeal site is in a sustainable location. I take this to mean 'sustainable' with reference to the accessibility of services and facilities rather than a wider definition of sustainability, which could include economic and social matters. This is because the DP, when read as a whole, particularly with reference to Policy TRA1, seeks to locate development in places which enable sustainable journeys to be made to key services and facilities.
 14. The appeal site is about 0.8miles from the village hall and the Brewery Tap Public House, which includes a shop. The former hosts several community events. The core of Furneux Pelham is about a mile away from the appeal site and includes various facilities including a primary school and church. Thus, the facilities are not so far away as to preclude regular walking as a travel option. That said, some facilities, particularly those in Furneux Pelham, are towards the upper end of what could be considered a reasonable walk, especially when considering the return journey. There is no pavement connecting the appeal site and these facilities but that is not unusual in a rural area where traffic speeds and volumes would be lower.
 15. Importantly, the walking route is attractive and subject to a 30mph speed limit so future residents of the proposal would not be inherently discouraged from walking due to the nature of the pedestrian environment taken with the proximity of the services. This would also encourage cycling as a possible option, although I accept not everyone would have the proficiency, fitness and confidence to travel by this mode of transport. There is also the option to walk about 0.2miles to the nearby bus stop, where a bus service to Royston and Bishops Stortford can be accessed.
 16. Thus, future occupants of the appeal property need not be entirely car reliant as there are realistic and convenient options to travel by other modes. In this respect, and bearing in mind that opportunities to maximise sustainable transport will be more inherently limited in rural areas, the proposal would enable future occupants to capture health benefits from sustainable travel and it would have lower carbon emissions derived from transport than a more remote dwelling. Overall, the proposal would be in a sustainable location and would adequately balance rural growth and sustainable transport.
 17. In conclusion, although the proposal does not glean support from Policy VILL3 it otherwise adheres to Policies DPS2 and GBR2 of the DP, being a proposal on previously developed land in a sustainable location. The appeal scheme would therefore be in a suitable location when applying the spatial strategy in the development plan.

Other Matters

18. Reference has been made to an appeal decision at Green Farm in East End (Ref. APP/J1915/W/19/3236599). I am not party to the evidence before the Inspector and therefore I have arrived at my own conclusions for the reason given. That said, the Green Farm site is located further away from facilities such that walking is unlikely to be a realistic alternative to car travel. Moreover, the Inspector also found harm to the character and appearance of the area. As such, due to these differing circumstances, there was a clear conflict with Policy GBR2 of the DP. This decision is not therefore, a material consideration that leads me to a different conclusion.

Conditions

19. I have considered the advice in the Planning Practice Guide and the conditions suggested by the Council. It is necessary in the interests of precision that the proposal is implemented in accordance with the submitted plans. In the interests of safeguarding the character and appearance of the area it is necessary to secure details of refuse facilities and landscaping. It is also necessary to safeguard the approved and existing landscaping.
20. In order to adhere to the specific requirements of the development plan it is necessary to secure details of sustainable construction, an electric vehicle charging point, high speed broadband and water use. In the interests of enhancing biodiversity it is necessary to secure details of habitat boxes/structures. A plan is required to ensure enforceability. In the interests of highway safety, it is necessary to secure off road parking and manoeuvring space prior to occupation as well as adequate visibility splays. In respect of the latter I have altered the condition because it has too flaws - it requires works to the satisfaction of the Highway Authority rather than just the local planning authority and 'to the authority's satisfaction' is an imprecise term.
21. As the appeal scheme would have ample off-road parking it is not necessary to secure the use of the garage for vehicle parking. Any commercial activity of the garage which is of note would likely require planning permission and therefore it is unnecessary to impose a condition preventing such a use. Although in an area of archaeological significance I have not been presented with substantive evidence to suggest the proposal would likely prejudice as yet unknown archaeology and I have seen no comments from the Historic Environment Unit. Thus, it has not been demonstrated that an archaeological condition is necessary. The external materials to be used are listed on the elevations so it is unclear what further details the Council are seeking and therefore a materials condition is unnecessary

Conclusion

22. The proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

Graham Chamberlain
INSPECTOR

Schedule of Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this decision.
2. The development hereby approved, including the external materials to be used, shall be carried out in accordance with the following approved plans: UK Map Centre Site Plan at a scale of 1:1250 and Drawing No 384.01A, 384.03 and 384.02.
3. Prior to the completion of foundations, details of the design 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 the winter to reduce energy demand and reduces water 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.
4. All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.
5. Prior to the first occupation of the dwelling, details of the precise access arrangements, parking areas and driveway, including visibility splays onto the C13, the materials to be used and the means to prevent surface water entering the highway shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the access arrangements, parking areas and driveway have been constructed in accordance with the approved details.
6. Prior to first occupation of the dwelling, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
7. Prior to the first occupation of the dwelling, details of all boundary walls, fences or other means of enclosure to be erected shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the

development should be implemented in accordance with the approved details.

8. Prior to the first occupation of the dwelling, all hard and soft landscape works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of five years after planting, are removed, die or become, in the opinion of the Local Planning Authority, seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved, unless the Local Planning Authority gives its written consent to any variation.
9. Prior to the first occupation of the dwelling, an electric vehicle charging point for the dwelling shall be provided and retained thereafter.
10. Prior to the first occupation of the dwelling, the provision of high-speed broadband internet connections to the development shall be provided and shall be made available for use prior to first occupation of the residential unit to which it relates.
11. Prior to the first occupation of the dwelling, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
12. Prior to the first occupation of the dwelling, a plan shall be submitted including the location and details of habitat boxes/structures to be installed, for the written approval of the Local Planning Authority, and the works shall be carried out in accordance with the approved plan unless otherwise agreed in writing by the LPA.
13. Prior to first occupation of the dwelling, facilities for the storage and removal of refuse from the site shall be provided, in accordance with details having been submitted to and approved in writing by the Local Planning Authority and thereafter the development should be implemented in accordance with the approved details.