
Appeal Decision

Site visit made on 22 March 2016

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 17 May 2016

Appeal Ref: APP/J1915/W/15/3141268

Land off Wicklands Road and South of Drury Lane, Hunsdon, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Chase Green Developments Limited against the decision of East Hertfordshire District Council.
 - The application Ref 3/15/0206/OP, dated 2 February 2015, was refused by notice dated 14 October 2015.
 - The development proposed is an "Outline application for the demolition of 30 Wicklands Road and the erection of 15 dwellings with all matters reserved except for means of access and layout".
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Decision

1. The appeal is allowed and planning permission is granted for an "Outline application for the demolition of 30 Wicklands Road and the erection of 14 dwellings with all matters reserved except for means of access and layout" at land off Wicklands Road and South of Drury Lane, Hunsdon, Hertfordshire, in accordance with the terms of the application, Ref 3/15/0206/OP, dated 2 February 2015, subject to the following conditions on the attached schedule.

Procedural Matters

2. The application was submitted in outline, with access and layout to be determined at this stage. Elevation drawing details have been treated as indicative.
3. During the determination of the planning application, the application was amended by reducing the number of proposed dwellings from 15 to 14. Additionally, the surface water drainage strategy was revised incorporating sustainable drainage measures, including filter drains and 'rain gardens'. For clarity, I have taken into account drawing number IDL/732/100 Rev 3 (showing 'rain gardens' and filter drains and not underground attenuation crates (plots 7-9)) as the relevant drainage plan.
4. A unilateral undertaking dated 17 March 2016 provided various infrastructure contributions and the management and maintenance of implementation of drainage measures if the development proceeded.

Cost Application

5. An application for costs was made by Chase Green Developments Limited against East Hertfordshire District Council. This application is the subject of a separate decision.
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Main Issues

6. The main issues are the effects of the proposal on (a) the surface water drainage and (b) the safety of highway users on Wicklands Road.

Reasons

Background

7. The appeal site comprises a detached dwelling at Hunston Lodge Farm with a garden off Drury Lane, a dwelling and garden at 30 Wicklands Road and a field roughly located in the intervening gap between the two properties. The field lies adjacent to other properties and allotments in Drury Lane and Wicklands Road. Beyond the eastern boundary of the site, there are fields.
8. The proposal would result in the refurbishment of the existing dwelling at Hunsdon Lodge Farmhouse and the provision of 2 dwellings within its curtilage. Access to this part of the development would be via Drury Lane. The remaining 12 dwellings would be built within the field with an access via Wicklands Road which would require the demolition of 30 Wicklands Road.

Surface water drainage

9. A Flood Risk Assessment (FRA)¹ indicates the appeal site to be wholly within Fluvial Flood Zone 1 which is identified as a low risk flood zone. For surface water flood risk, the site is indicated as a potential low risk of surface water flooding through the central section of the site from the existing fields to the east. The Strategic Flood Risk Assessment (SFRA) shows the site not to have been subject to historical flooding.
10. Following consultation with Hertfordshire County Council (HCC) (the Lead Local Flood Authority), the revised Surface Water/Sustainable Urban Drainage system (SW/SUDs) Strategy² confirms that soakways would not function satisfactorily on the site following infiltration tests. Taking this into account, the strategy details that overflow surface water would lead to a 'rain garden' serving each property. This feature will slow and store water before it drains into filter drains/drains which connect to existing ditches within the site. For the 3 dwellings at Hunsdon Lodge Farm, any exceedence water flows would be directed to a shallow water basin via a filter drain. Additionally, the strategy shows the provision of permeable block paving serving the access road, parking and turning areas. This block paving would incorporate a perforated sub-base to act as an overflow during prolonged rainfall. Each property would also have a water butt for roof water run-off.
11. Third party representations have pointed to a high water table, poor porosity of the site, badly maintained and designed drainage facilities in the area and risk of flooding from this development. Photos of flooding, including in Wicklands Road, have been submitted. However the strategy states that the on-site measures would accommodate excess volumes of surface water generated during periods of heavy or prolonged rainfall on site. In this regard, these measures would provide for a volume of surface water equivalent to the peak rainfall generated during a 1:100 year plus 30% storm event in accordance

¹ Flood Risk Assessment, Wicklands Road, Hunsdon WSP 21 January 2015

² Surface Water/SUDS Strategy Wicklands Road/Drury Lane, Hunsdon Village, Herts, Infrastructure Design Limited, detailed as REV B 8 September 2015 (3rd Page).

with accepted practice and policy. After having passed through ditches on the appeal site, there would be some water flows into neighbouring ditches and drainage infrastructure. However, the revised SW/SUDS Strategy would minimise this and is indicated to result in reduced flows compared to the existing situation where the site is allowed to drain unrestricted to neighbouring ditches, culverts and pipes.

12. Turning to concerns about maintenance, HCC states the proposed drainage system will require little maintenance. Nevertheless, obligation requires the developer to submit and have approved by the Council an on-going management and maintenance of the drainage strategy within and outside the residential curtilages of dwellings on the site. Such a requirement would ensure that sustainable features are maintained.
13. HCC has recommended planning permission be granted on the basis of the revised SW/SUDS Strategy incorporating filter drains and 'rain gardens'. Indeed, it has reviewed the surface water calculations and found the site would be adequately drained able to accommodate a 1 in 100 year flood event including allowance for climate change. Furthermore, the Council's Engineers comment that the 'rain gardens' with filter drains, permeable paving and water basin would reduce flood risk. As technical consultees providing specialist advice on drainage matters, such views are of significance. Although local flooding and conditions have been cited, this has not been used to present any cogent case to demonstrate that the revised SW/SUDS Strategy would not function properly or address flood risk. Therefore, there is no reason to set aside the strategy and the views of technical consultees and indeed the appellant's evidence that implementation of the strategy would not increase flood risk in the area.
14. My attention has been drawn to other locations within Hunsdon where flooding occurs. At the time of the application's determination, HCC was carrying out an investigation into flooding but I have no details of this to make comment. However, there is no evidence that this development would increase the risk of flooding for the reasons indicated.
15. In conclusion, I am not persuaded that the development would increase flood risk in the area through an unsatisfactory and poorly maintained drainage system for the reasons indicated. Accordingly, the proposal would comply with Policy of ENV21 of the East Herts Local Plan Second Review (LP) 2007 which amongst other matters, requires proposals to take into consideration Best Management Practices to surface water drainage and for obligations to ensure on-going maintenance of such practices. Similarly, it would comply with the policies of the National Planning Policy Framework which require flood risk not to be increased and for both developers and Councils to work proactively to improve the environmental condition of the area.

Highway safety

16. The proposal would result in a net increase of 11 dwellings accessed off Wicklands Road and 2 dwellings off Drury Lane. Both roads are cul-de-sacs where parking for residents is mostly provided off-street.

17. The Council's reasons for refusal refer to the Wicklands Road's substandard width and turning capability. The appellant's highway appeal statement³ details the width to be between approximately 4.8m and 6m, with a 2m footway either side. The statement indicates that the road at its minimum width would be able to take up to 100 residential units under HCC Roads in Herts Highway Design Guide 2011 which would be the case with the completed housing. It is acknowledged that the existing turning head does not meet current design standards. However, the proposed turning head within the site would provide an opportunity for refuse and other larger vehicles to turn in an area which would be better than the present situation on Wicklands Road.
18. Turning to the impact of the proposal on on-street parking on Wicklands Road, third party representations have been submitted showing high levels of on-street parking and the impact of this development upon this, including the new access onto Wicklands Road. There are some discrepancies in the appeal documentation over the exact number of proposed car parking spaces but the site layout shows that sufficient spaces could be incorporated to meet current or emerging parking standards, including for visitors. Given this, there would be little demand for on-street parking on Wicklands Road.
19. The appellant has assessed the on-street parking capacity of Wicklands Road as having 29 spaces. Parking surveys were undertaken of the road to show that on-street parking ranged from 25% to 63% of this capacity. HCC highways further carried out a TRICS (Trip Rate Information Computer System) assessment which indicated that there would be an additional 6 traffic movements at peak hours on Wicklands Road. This would not be a significant increase given the existing traffic which would be expected to be generated on Wicklands Road by virtue of the number of dwellings on it. On this basis, I am not persuaded that the development would adversely affect car parking in the area or highway safety.
20. Third party representations have expressed concerns about the appropriateness of the new road junction off Wicklands Road in terms of highway safety. However, the appellant's highway statement indicates that the design of the access is consistent with the requirements of the Roads in Herts Highway Design Guide to which the HCC has not raised any objection.
21. Comments have been made about the condition of Drury Lane and the extent of on-street car parking. However, HCC TRICS assessment indicates that the development would only increase traffic movements by two at peak times. Such a level of vehicular movements would not be significant even if cars are parked on the road restricting traffic movement. There would be additional traffic generated from this development in the surrounding country roads but there is no technical evidence or relevant consultee comments to indicate that highway safety of road users would be adversely affected. Indeed, on all these highway matters, there is no evidence to dispute the acceptability of the scheme in highway terms found by the County Council highways authority or the appellant's highway adviser.
22. In conclusion, the proposal would not harm the safety of users on Wicklands Road and Drury Lane for the reasons indicated. Accordingly, the proposal would comply with Policy TR2 of the LP which requires development to be

³ Highways Appeal Statement, Chase Green Developments, Hunsdon Lodge Farm, Hunsdon, I Dix, Vectos Transport Planning Specialists, December 2015.

assessed against the standards set out in the Hertfordshire County Council's Roads in Hertfordshire Design Guide (or as subsequently superseded by the local highway authority). Furthermore, the proposal would comply with the requirements of the Framework because the residual cumulative impacts of the development would not be severe for the reasons indicated.

Planning Obligation

23. The obligation provides for the provision of on-site affordable housing and contributions for local infrastructure. For HCC, the contributions are for the County Council Ware Library, Hunsdon Primary School, youth facilities (lighting and sports equipment for new multi-use games area in Ware) and fire and rescue. For the District Council, the contributions would be for the upgrading Hunsdon Village Hall facilities, play equipment improvements at the recreational playing field and refurbishing the village tennis court.
24. Policy HSG3 of the LP sets out that development within category one villages should provide up to 25% affordable housing. Despite not being within the development boundaries of a category one village, the obligation would provide 25% affordable housing on the site in a mix of 75% rented and 25% shared ownership units. Although the policy justification to support the 25% affordable housing ratio is limited, the site lies adjacent to the built-up area of the village and such provision has the support of the Council's Housing Team who have pointed out a shortage of 1, 2 and 3 bedroom affordable units in the area. Given the need identified and the absence of any viability issues raised by the appellant, I consider that the requirement is necessary based on the evidence before me and would meet the statutory tests under Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). As the proposal would result in additional affordable housing provision, it is also a benefit that would weigh in favour of the proposal.
25. The County Council's Planning Obligations guidance – toolkit for Hertfordshire 2008 provides a policy justification for the local infrastructure for contributions sought along with a well-reasoned methodology of how costs are derived. They have also confirmed that the number of obligations for the different infrastructure is below the threshold of five pooled schemes as set out in Regulation 123 of the CIL Regulations. On this basis, I am satisfied the County Council contributions would meet the statutory tests of the CIL regulations and these elements of the obligation have been taken into account.
26. For the District Council, the Officer's report has put forward some justification for contributions sought but in the absence of any Statement of Case, policy documentation is limited. There is also no evidence provided to show whether the number of obligations for the infrastructure sought meets the threshold set out in Regulation 123 of the CIL Regulations. On this basis, I can only conclude that the contributions sought would not meet the statutory tests of Regulation 122 of Community Infrastructure Regulations 2010 (as amended) and therefore this part of the obligation has not been taken into account in my decision.

Other matters

27. The development lies mainly outside the defined settlement policy boundaries of the village and as such is contrary to the Council's LP policies for controlling housing development in the countryside.

28. The Council has accepted a lack of five year housing supply of sites and in this instance the fourth bullet point of paragraph 14 of the Framework is engaged. In this regard, it has been pointed out that village facilities and services are limited but nevertheless it is indicated that the village has been identified as a Group One Village within its LP, defined as most sustainable. From my assessment of village facilities and services, there would be likely to be some need to travel by private car but the Framework recognises that development will enhance or maintain the vitality of communities and those opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
29. In respect of the living conditions of the adjacent residents, the dwellings shown on the layout plans would be located sufficiently away from neighbouring properties to avoid harmful loss of privacy, outlook or light. In the case of the dwellings accessed off Wicklands Road, the access would be between the gardens of neighbouring properties. Nevertheless, for the reasons already indicated, increased traffic movements would not be significant on both Drury Lane and Wicklands Road and thus increased noise and disturbance would be small.
30. The parcel of land is not substantial in extent and there is no evidence of any impact on agricultural efficiency or viability in the area. The appellant's Ecology evidence indicates that the only potential wildlife species of importance on site, bats and Great Crested Newts, could be safeguarded and mitigated through conditions. The Council's Officer's report sets out that the requirements of the Habitats Directive would not be contravened, to which I have no reason to disagree with, based on the precautionary principles.
31. As to benefits, the development would boost housing supply, provide support to the local economy by reason of its construction and financial spend of future occupiers, and provide affordable housing. By reason of the number of dwellings proposed, including affordable, this would be significant consideration to which I attach substantial weight to.
32. For all these reasons, in the balance under paragraph 14, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits, when assessed against policies taken as a whole. Therefore, the presumption in favour of sustainable development should apply.

Conditions

33. Suggested conditions have been considered in light of advice contained in Planning Practice Guidance. In the absence of any suggested conditions by the Council, I have considered, as the appellant has done so, the conditions listed in the Council's officer's report. For clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.
34. I have attached conditions limiting the life of the planning permission and set out the requirements for the submission of reserved matters in accordance with the Act. A requirement for the submission of reserved matters within 3 years and commencement of development within 2 years of the final approval of reserved matters has been imposed. In the absence of any justification, shorter time scales have not been imposed. As access and layout are matters to be considered, a condition detailing relevant plans is necessary.

35. Given the County Council comments on the importance of archaeology in the area, a watching brief condition has been imposed. A contamination condition has been imposed on the advice of the Council's Environmental Health department. To safeguard the living conditions of residents, conditions are necessary to require the submission and implementation of a construction method statement and restriction on construction hours. In the interests of nature conservation, conditions are necessary to ensure Great Crested Newt mitigation measures and the inspection of trees for bats before their removal.
36. Conditions have been imposed to require the submission and implementation of detailed design and construction of proposed accesses onto the public highways, and on-site turning facility for larger vehicles.
37. To ensure implementation of the drainage proposals, conditions have been imposed stipulating SUDs measures. Confusingly, both the original and revised strategies including plans are titled/numbered similarly. For the avoidance of doubt, the scheme referred to is that with 'rain gardens' and filter drains, and not the underground attenuation crates (plots 7-9). Permitted development rights have been removed to ensure the SUDs are not encroached upon so limiting their effectiveness. To provide a setting for a heritage asset, a condition is necessary to provide details of the finished surroundings to a WWII pillbox, a Scheduled Ancient Monument.
38. Some conditions require the submission and approval of details before development commences. In these instances, the details are required at an early stage because they are so fundamental to the successful implementation of the proposal. Finally, a condition is not necessary to link up the two groupings of dwellings via a footway/footpath, as both have access down Wicklands Road and Drury Lane into the village. There is a public right of way around the north and east boundaries of the site. A condition requiring the upgrade of this footpath is not necessary as no justification has been provided to demonstrate that this is necessary to make the development acceptable.

Conclusion

39. Applications for planning permission must be determined in accordance with development plan unless material considerations indicate otherwise. Policies ENV21 and TR2 of the LP would be complied with in respect of drainage and highways matters.
40. There would be a conflict with the Council's development plan policies for the supply of housing because the development would be mainly located outside the settlement policy boundaries of Hunsdon. In terms of the Framework, the adverse impacts of granting planning permission have been found to be significantly and demonstrably outweighed by the benefits. In this regard, the development has been found to be sustainable for which there is a presumption in favour. This would outweigh any conflict with the development plan taking into account the boost to housing supply and the provision of affordable housing.
41. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Attached schedule of conditions

1. Details of the scale, landscaping and appearance (hereafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for approval of reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
3. The development hereby permitted shall begin either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: H2123 102 F; 732-02-100 and 732-02-101 (in so far as they relate to access and layout matters).
5. No development shall take place until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority
6. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology that has been approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development commences.

If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted, together with a timetable for implementation, shall be submitted to and approved in writing by, the local planning authority before any development begins. In accordance with the approved measures and timetable, the site shall be remediated and a validation report, demonstrating the effectiveness of the remediation carried out, shall be provided to the local planning authority.

If during the course of the development, any contamination is found which has been identified in the site investigation, development on the affected part of the site shall stop and a report setting out additional measures for the remediation of this source of contamination, together with a timetable for the implementation, 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 validation report provided to the local planning authority.

7. No development shall take place, until a Construction Method Statement, has been submitted to, and approved in writing by the local planning authority. The approved plan shall be adhered to throughout the construction period. The plan shall provide the following details:

- (a) the parking of vehicles of site operatives and visitors;
 - (b) methods of accessing the site;
 - (c) loading and unloading of plant and materials;
 - (d) storage of plant and materials in constructing the development;
 - (e) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - (f) wheel washing facilities;
 - (g) measures to control the emission of dust and dirt during construction;
 - (h) a scheme for recycling/disposing of waste resulting from the demolition and construction works.
8. Construction works shall not take place outside 0800 hours to 1800 hours Mondays to Fridays and 0800 hours to 1300 hours on Saturdays nor at any time on Sundays or Bank Holidays.
9. The development shall be carried out in accordance with Great Crested Newt mitigation measures as set out in the Ecological Appraisal by CSA Environmental Planning dated November 2014.
10. Prior to the removal or significant pruning of any trees within the site a tree climbing inspection, and/or dusk emergence survey of these trees for bats shall be submitted to and approved in writing by the local planning authority and if bats are found then no works to the trees should take place until mitigation measures have been submitted, approved in writing by the local planning authority and implemented.
11. Prior to the commencement of the development, a plan of a scale of 1:200 shall be submitted to and approved in writing by the local planning authority showing the detailed design and construction of the access. The submitted plans shall show visibility splay, gradient and any associated works to create the access. All works to the accesses shall thereafter be constructed in accordance with the approved details and completed prior to the first occupation of the development. The visibility splays shall thereafter be permanently maintained within which there shall be no obstruction to visibility between 0.6m and 2m above the carriageway.
12. Prior to the commencement of the development hereby permitted, details of the on-site vehicular turning space for service vehicles and a refuse vehicle of 11m in length, shall be submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
13. The development shall be carried out in accordance with the revised Surface Water/SUDs Strategy Wicklands Road/Drury Lane, Hunsdon Village, Herts, Infrastructure Design Limited (detailed as REV B 8 September 2015) and all SUDs measures as shown in drawing reference IDL/732/100 Rev 3 (showing 'rain gardens' and filter drains and not the

underground attenuation crates (plots 7-9)). The Strategy and SUDs measures shall be implemented prior to the first occupation of the development and thereafter retained in accordance with the approved details.

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development as specified in Schedule 2, Part 2, Classes A, E and F shall be undertaken.
15. Remediation works for the existing ditches and culverts within the appeal site as set out in the revised Surface Water/SUDs Strategy Wicklands Road/Drury Lane, Hunsdon Village, Herts, Infrastructure Design Limited (detailed as REV B 8 September 2015) and all SUDs measures as shown in drawing reference IDL/732/100 Rev 3 (showing 'rain gardens' and filter drains and not the underground attenuation crates (plots 7-9)) shall be carried out prior to any development on the site.
16. Prior to the commencement of any above ground building works a scheme setting out how the surroundings of the Scheduled Ancient Monument to the north of the site are to be treated, including the provision of footways and interpretation material, shall be submitted to and approved in writing by the local planning authority. Prior to the completion of the development, the approved details shall be fully implemented.