



Appeal Decision

Hearing Held on 15 May 2018

Site visits made on 30 January 2018 and 15 May 2018

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2018

Appeal Ref: APP/B1930/W/17/3186701

Land between Hopkins Crescent and former Baptist chapel, High Street, Sandridge, St Albans, Hertfordshire, AL4 9BY

- 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 Mr & Mrs David Jelley against the decision of St Albans City & District Council.
 - The application Ref 5/17/1471, dated 22 May 2017, was refused by notice dated 3 October 2017.
 - The development proposed is new access and erection of 14 no. 3-bedroom semi-detached affordable (intermediate – shared ownership) houses.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr and Mrs Jelley against St Albans City & District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application is in outline with access and layout to be considered as part of the application and matters concerning appearance, landscaping and scale reserved for future consideration. A drawing showing proposed elevations has been submitted with the application which I have treated as being indicative given that matters concerning appearance and scale are reserved.
4. The Council's third reason for refusal relates to the absence of a surface water drainage assessment. The Council has subsequently confirmed that it no longer wishes to defend this reason for refusal and I have not therefore considered it further.

Main Issues

5. The main issues are:
 - i) Whether or not the proposal would be inappropriate development in the Green Belt, with particular regard to the provision of affordable housing;
 - ii) The effect upon the character and appearance of the area; and

- iii) If the development is inappropriate within the Green Belt, would this harm, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal?

Reasons

Whether or not the proposal would be inappropriate development in the Green Belt

6. The site, along with the village of Sandridge as a whole, is located within the Green Belt. Policy 2 of the St Albans District Local Plan Review 1994 ('the Local Plan') designates the village as a settlement location within the Green Belt. Both policies 1 and 2 of the Local Plan generally restrict development in such settlements. There is some inconsistency between these Local Plan policies and the National Planning Policy Framework ('the Framework') which reduces to a certain extent the weight to be applied to conflict with them.
7. Policy 8 of the Local Plan allows planning permission to be granted for affordable housing for local needs in the Green Belt subject to several criteria as set out in the policy. In my reading, the policy indicates that all the criteria need to be complied with for a proposal to be acceptable, though it is for the decision maker to decide whether or not a proposal is in such breach of the policy to be contrary to it when considered as a whole.
8. Paragraph 89 of the Framework sets out the exceptions to the general presumption that the construction of new buildings is inappropriate in the Green Belt. These exceptions include limited affordable housing for local community needs under policies set out in the Local Plan. I am satisfied that 'limited infilling in villages', whilst included in the same bullet point of paragraph 89, should be treated as a separate exception. Both criteria do not need to be met for development to be appropriate in the Green Belt. Though the Local Plan was adopted some time prior to the Framework, policy 8 can still be considered as a relevant policy in the context of paragraph 89, and is generally consistent with the Framework.
9. The application proposes that the three bedroom houses would be available as affordable housing on a shared ownership basis. The Council's Housing Vision Independent Assessment of Housing Need and SHMA Update 2015 indicates a need for 106 three bedroomed shared ownership houses. Whilst this need is significantly lower than for socially rented dwellings, it remains a need requiring to be met. The appellant also suggests that the need for shared ownership dwellings in the district is likely to be considerably higher based on a higher Objectively Assessed Need than that coming forward through the emerging Local Plan. Subject to appropriate arrangements to secure the affordable housing on a satisfactory and affordable basis, the proposal could potentially contribute towards meeting this need. However, this is a figure for the District as a whole and no detailed evidence is before me regarding need on a more local basis.
10. In my view, a local community need as required by paragraph 89 of the Framework is more constrained than the need across the local authority area as a whole. It is very possible that housing needs may vary across the local authority area. This correlates with certain criteria of Policy 8 of the Local Plan. The first criterion includes the requirement for evidence to show that the village or parish has a demonstrable need for low cost housing which cannot be met in

a non-Green belt location. Information has not been provided which complies with the Footnote to the policy explaining how evidence of need should be assessed.

11. Consequently, from the evidence I do not consider that it has been satisfactorily demonstrated by robust evidence that the proposal would meet local community needs in this case. For this to be done, a more localised assessment of housing need is required which relates to the needs of the local community rather than the local authority area as a whole. The washing over of the village by the Green Belt inevitably constrains the ability to provide affordable housing in non-Green Belt locations. However, whilst there is clearly a significant need for affordable housing in the wider local authority area as a whole, the lack of evidence regarding local community housing needs weighs significantly against the proposal in the context of policy 8 of the Local Plan and paragraph 89 of the Framework.
12. Even should the figures for housing need for the District be found to be representative for the local community of Sandridge (which has not been proven), then proportionately the need for 3 bedroom shared ownership dwellings appears to be much less than the amount of housing being proposed in this instance. Although the provision of a greater amount of affordable housing would still be advantageous, it does not meet the particular policy requirements for the provision of affordable housing for sites within the Green Belt.
13. The appellant has drawn my attention to the Council's recent approval of other schemes for affordable housing in Sandridge. I note those cases involved a substantial proportion of one or two bedroom dwellings, argued by the Council to be in particular need. Also no objections were raised in either case to the impact upon the character and appearance of the area, in contrast to the current appeal case. The officer reports refer to the evidence contained within the relevant Housing Vision Independent Assessment of Housing Need and SHMA. In both cases I am not aware of any specific evidence to suggest how the proposal would specifically meet local community needs. However, this does not alter the need for me to robustly assess the current proposal against the relevant development plan policies and the Framework including paragraph 89.
14. I also note the Council's conditional approval of a scheme at the Building Research Establishment site in Garston. However, the circumstances of that scheme appear to be different to the current appeal taking account of the location of the site in a different part of the local authority area and the small proportion of shared ownership housing being proposed. It therefore carries little weight in this appeal.
15. In addition, the appellant refers to a recent appeal decision¹ for a re-development proposal at Oaklands College in St Albans. The proposal as allowed includes the provision of 3-bedroom shared ownership housing, contributing towards need in the District. However, as outlined above, I consider the current appeal case to centre on whether the provision of affordable housing meets a local community need taking account of policy 8 of the Local Plan and the Framework. This is different to the test of whether there is a need for affordable housing across the Council's entire area. In the

¹ APP/B1930/W/15/3051164

Oakland College case, the development was found to be inappropriate development in the Green Belt but it was concluded that very special circumstances existed to clearly outweigh the harm. These circumstances included a large amount of housing including 121 affordable houses and considerable education benefits. I have given this decision some limited weight, but the current appeal proposal needs to be considered on its individual merits and circumstances.

16. A letter from St Arthur Homes (a registered provider of affordable housing) has been provided expressing an interest in delivering the appeal proposal. I have little doubt that the site would be attractive to such a potential purchaser but this carries little weight in terms of demonstrating how the proposal meets the particular policy requirements in the development plan and the Framework regarding affordable housing in the Green Belt.
17. I acknowledge the findings of a previous appeal² Inspector that housing should not be rejected just on the basis that a particular proposal does not meet the needs of those who have the greatest need. However, this case appears materially different to the circumstances of that proposal which was considered against policy 7, not policy 8 of the Local Plan. The considerations in the case before me are materially different given the particular requirements of policy 8. Whilst the appellant argues that the proposal provides for affordable housing to contribute to meeting the needs of the district as a whole, there is no robust evidence to demonstrate that a more local community need would be met.
18. Although representations have been made stating that there is a local need, given the great importance attached by the Government to Green Belts, it is necessary for affordable housing proposals on Green Belt land to be supported by robust and thoroughly researched evidence of what the particular local community need is for such housing. Otherwise, it could result in Green Belt sites being potentially harmfully developed in circumstances which do not specifically meet such a need.
19. The second criterion of policy 8 requires that secure arrangements must be made to ensure that the housing is reserved permanently for people with strong local connections and that the housing is affordable not only for the initial occupants but also for subsequent occupants. However, the provision for a local connection in the completed s106 agreement does not appear to limit occupation in the manner sought by the policy (i.e. related to the parish) or that it would be restricted to providing for local community need as required by the Framework.
20. The definition of Local Connection in the s106 agreement does not provide for the necessary certainty in this respect. The agreement also does not make clear how the levels of affordability would meet the specific local community needs. Furthermore, whilst acknowledging the nature of the shared ownership housing proposed, there is no guarantee that the housing would remain affordable for subsequent occupiers. There is no indication that any subsidy would be recycled for alternative affordable housing provision that would benefit this particular local community.

² APP/B1930/A/01/1073344

21. I note the representations made by the parties regarding how the agreement was formulated. However, these do not alter my concerns on the appropriateness of the agreement in this case.
22. Therefore, whilst not doubting the intention of the applicant in seeking to provide affordable shared ownership housing, it has not been satisfactorily demonstrated though the evidence, including the s106 agreement, that the proposal, would satisfy the relevant affordable housing requirements of policy 8 of the Local Plan or paragraph 89 of the Framework.
23. I have also considered the matter of whether the proposed development would be limited as required by the Framework. The houses themselves would appear to be of a reasonable size for 3 bedroom dwellings suitable for occupation by families. Whilst the quantum of dwellings being provided pushes the boundaries of what might be considered to be limited development, this is not a matter which weighs significantly against the proposal in this case. This does not, however, change my view on the acceptability of the proposal in the context of policy 8 and paragraph 89 the Framework.

Character and appearance

24. I note the representations received regarding the appearance of the site, but in the context of the site's location at the edge of the village, the overall openness of the site makes a positive contribution to the generally rural setting of the village. Whilst there are buildings located adjacent to three sides of the site (including on the opposite side of the road) it provides a visual break between the core of the village and the generally more sporadic development to the south. Policy 8 includes the requirement that proposals must not detract from the character and setting of the settlement.
25. In determining the previous appeal³ for six dwellings, the Inspector's concerns included the resulting erosion of the open and rural character of Sandridge. Prior to that decision another appeal decision⁴ for five houses included concerns regarding harm to the character and appearance of the area, albeit that proposal related to a considerably smaller site than the current proposal.
26. Although matters of design and appearance are reserved, the layout of the proposal shows a row of fourteen semi-detached dwellings which are indicated to be two storey in height. Whilst existing and proposed landscaping would provide for some considerable screening, I consider it is still likely that the development would be apparent within the streetscene, including in views through the proposed vehicular access and from higher land on Highfield Road. The loss of the open character of the site, replaced by an essentially urban form of development, would result in moderate harm to the rural setting and character of the village.
27. The development would therefore be contrary to the requirement of Policy 8(v) of the Local Plan to not detract from the character and setting of the settlement. It would also be contrary to the design aims of the Framework and its Green Belt aim of preventing the countryside from encroachment.

³ APP/B1930/W/16/3152521

⁴ APP/B1930/W/15/3019436

Conclusions on inappropriate development

28. I am therefore not satisfied that the proposal would be in accordance with the requirements of Policy 8 of the Local Plan, when considered as a whole. It would also not accord with any of the exceptions to inappropriate development in paragraph 89 of the Framework including affordable housing for local community needs under Policies set out in the Local Plan. The development would therefore be inappropriate development in the Green Belt.

Openness of the Green Belt

29. The proposal would introduce 14 houses on to open land along with associated parking and vehicular access areas. Whilst being adjacent to existing built development, it would consequently have a considerable adverse impact upon the openness of the Green Belt.

Other considerations

30. The parties agree that the Council is not currently able to demonstrate a five year supply of housing land. The proposal would make a contribution towards increasing the supply of dwellings, widening the choice of homes and reducing the shortfall. The applicant's intention is for the dwellings to be provided as affordable housing. It has not been satisfactorily demonstrated that the dwellings would specifically meet a local community need and concerns are raised regarding the specific details of the affordable housing and their delivery. Nevertheless, subject to satisfactory details, the general principle of the provision of 14 affordable dwellings would weigh considerably in favour of the proposals.

31. The construction of the development would result in moderate economic benefits including for local people and businesses, local spending from future occupants and additional revenues for local services from Council taxes. Located close to local services in the village the houses would also have benefits for the vitality and viability of the village and facilities within it.

Other matters

32. The appellant refers to a recent appeal decision in Dorset⁵. I note that the Inspectors reasoning in that decision refers to the need for local affordable housing in Corfe Mullen as being an important factor, rather than just the affordable housing need for the district as a whole. In the case of the current appeal, detailed and robust evidence of affordable housing need specifically in Sandridge has not been provided. It does not therefore amount to appropriate development in the Green Belt and the balancing exercise against the harm resulting, including on character and appearance, is different to that undertaken in the Dorset appeal.

33. My attention has also been drawn to the draft revised Framework, along with the Prime Ministers Speech of 5th March 2018. As the revised Framework is yet to be published following consultation, the draft version carries only limited weight. Such matters do not alter my overall conclusions in the determination of this appeal.

⁵ APP/U1240/W/17/3176819

34. The Council's decision notice makes clear that the Council considers the proposal to be inappropriate development in the Green Belt. The second reason for refusal specifically refers to policy 8 of the Local Plan and the reasons for refusal in the decision notice (other than reason 3) are expanded upon and elaborated in the Councils statement of case and oral evidence at the hearing.
35. The Council has not raised any objection in terms of whether the proposal would preserve or enhance the character or appearance of the Sandridge Conservation Area, the boundary of which passes through the middle of the site. This matter was also not raised in the previous appeal decision relating to the site. The appellant's heritage statement says that there would be at best slightly positive and at worst a neutral impact on the Conservation Area and locally listed buildings. Its conclusion states however that there would be less than substantial harm to the significance of the designated heritage assets but indicates that this would be outweighed by the public benefits of new affordable housing. Details of the appearance of the proposed houses is a reserved matter and, taking account of my concerns regarding the rural setting of the village, I do not consider from the details provided that the proposal would be likely to enhance the Conservation Area. Given my overall conclusions on those matters in dispute between the main parties, it is not necessary to consider this matter further as part of this appeal as it would not alter my overall decision in the determination of this appeal.
36. In addition to the s106 agreement for affordable housing the appellant has submitted a Unilateral Undertaking making provision for highways, library, primary education and youth service contributions to the County Council. Given my overall conclusion that the appeal should be dismissed, it has not been necessary to consider this further as part of the appeal.

Planning Balance and Conclusion

37. Given the lack of a five year supply of housing land, in accordance with paragraph 49 of the Framework the relevant policies for the supply of housing should not be considered up to date. I have found that the proposal development is not in accordance with Local Plan policies 1, 2 and 8 or the Green Belt aims of the Framework. The conflict with policies 1 and 2 is reduced to a certain extent due to some inconsistency with the Framework.
38. I have found the proposal to represent inappropriate development which would have an adverse impact on the openness of the Green Belt. In accordance with the Framework, I have given this harm substantial weight. I have also found that moderate harm would arise in terms of the impact upon the setting of the village and encroachment in the countryside. The Framework makes clear that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
39. I have given the provision of new housing, including affordable housing, considerable weight, taking account of what I recognise from the evidence to be the substantial overall need for housing, including affordable housing, within the Council area. I have also considered the representations in support of affordable housing on the site from local residents. Other benefits would also arise as outlined earlier in my decision. However, the benefits of the proposal would not clearly outweigh the harm resulting to the Green Belt

and the other harm I have identified. In reaching this conclusion, I have taken into account the Government's Planning Practice Guidance which states that *unmet housing need is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'very special circumstances' justifying inappropriate development on a site within the Green Belt.*

40. In circumstances where relevant policies are out-of-date, the Framework indicates that permission should be granted, unless there are specific policies in the Framework (such as land designated as Green Belt) which indicate that development should be restricted. Given that very special circumstances do not exist, Green Belt policy indicates that development should be restricted in this case. This is not therefore a case where the tilted balance in paragraph 14 of the Framework is applicable. Overall, therefore, the proposal does not represent sustainable development. It is contrary to the Local Plan and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
41. Therefore, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE APPELLANT:

Brian Parker	MRP Planning
David Jelley	Appellant
Jane Jelley	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Mathew Taylor	Aitchison Raffety
John Hoad	Team Leader – Spatial Planning and Design
David Reavill	Strategic Housing Manager

INTERESTED PARTIES

Richard Curthoys	Councillor
Roma Mills	Councillor
Geoff Harrison	Councillor
Tim Moore	Local resident and Chairman of St Helier Road and Banks Residents Association

DOCUMENTS SUBMITTED AT HEARING

1. Conservation Area Character Statement for Sandridge

DOCUMENTS SUBMITTED AFTER THE HEARING

1. Email and attachment from the appellant dated 25th May 2018 regarding s106 agreement.
2. Letter from Council dated 29th May 2018 regarding s106 agreement.