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# Appeal Decision

Site visit made on 24 July 2018

**by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17 August 2018**

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**Appeal Ref: APP/J1915/W/18/3194353**

**Dolans Field, Bromley Lane, Much Hadham SG10 6HQ**

- 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 Chaldean Properties Ltd against the decision of East Hertfordshire District Council.
  - The application Ref 3/17/2112/OUT, dated 12 September 2017, was refused by notice dated 8 December 2017.
  - The development proposed is the erection of 35no. dwellings (9no. two bed, 12 no. three bed and 14no. four bed) (outline application - all matters reserved).
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) was published after the parties submitted their appeal statements. They were given the opportunity to comment on it and I have taken the comments received and the revised Framework into account.
3. The Inspector's report on the emerging East Herts District Plan (DP) and the Council's Annual Monitoring Report 2016-17 (AMR) were also published after the appellant submitted its statement. In a change from the time when the application was determined, the Council now considers that these documents demonstrate that it has a five year supply of housing land. The appellant was given the opportunity to comment on these matters. For the avoidance of doubt, I have had regard to the Main Modifications versions<sup>1</sup> of the DP policies as referred to in the examining Inspector's Report. There is nothing in the appellant's comments in response to the Inspector's report to suggest that this version of the policies has implications for its case.
4. The decision notice contains four reasons for refusal. The Council has confirmed that the submission of an acceptable Flood Risk Assessment and an archaeological investigation report at the appeal stage overcomes the third and fourth reasons for refusal. The relevant statutory consultees have confirmed that, subject to the imposition of relevant conditions, this material overcomes their concerns. I have no reason to doubt these findings. I have framed the main issues having regard to the above considerations.

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<sup>1</sup> The submission versions of Policies DES1 and DES3 have been re-numbered DES2 and DES4 in the Main Modifications

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5. Although the application was made in outline with all matters reserved, an indicative Site Layout Plan was submitted. I have had regard to the Site Layout Plan on that basis.

### **Main Issues**

6. The main issues are:
  - the effect of the proposal on the character and appearance of the landscape and the setting of the Much Hadham Conservation Area;
  - whether the proposal would meet local and national policy objectives for sustainable travel;

### **Reasons**

#### *Character and Appearance*

7. The appeal site comprises an agricultural field located at least 250m to the north of the settlement boundary for Much Hadham as defined in the East Herts Local Plan Second Review 2007 (LP). In this location the settlement boundary broadly coincides with the established built up area of the village. Whilst there are further buildings to the north of the boundary, they are sporadically spaced along High Street and Bromley Lane and are adjoined by extensive areas of open land. The appeal site is, therefore, divorced from the built up area and the small number of nearby buildings sit within a predominately rural landscape.
8. The submitted Landscape and Visual Impact Assessment (LVIA)<sup>2</sup> reviews the landscape character of the area, amongst other things by reference to the East Herts Landscape Character Assessment (LCA). It notes the area's distinctive valley landscape form and flat valley floor, which is edged by steep undulating slopes, some densely vegetated, some in arable cultivation. The LCA goes on to refer to the small to medium scale elements within a contained, unified and generally tranquil landscape, as well as its 'good' condition and 'strong' character. To my mind, this is a fair summary of the landscape character of the area.
9. The vicinity of the appeal site also contributes to the setting of the Conservation Area (CA) and is in close proximity to the Grade II listed buildings at Whiprow Cottages. The CA takes in the largest part of the built up area of Much Hadham and the settlement's linear form and collection of high quality historic buildings are amongst the contributors to the significance of the heritage asset. The CA also includes open spaces around the built up area which, together with the loosely spaced built development, provide an attractive, low-key, gentle introduction to the village.
10. The appeal site sits at a higher level than Bromley Lane and slopes up steadily from east to west. Much of its perimeter is marked by substantial vegetation. By virtue of its topography, openness, field boundary planting and agricultural use, the appeal site is therefore typical of, and contributes positively to, the landscape character of the area and the setting of the CA. These considerations indicate that the site and surrounding area has high/medium

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<sup>2</sup> ACD Environmental March 2017

- landscape value and sensitivity, based on the criteria in Tables 2 and 3 of the LVIA.
11. The indicative Site Plan shows the proposed dwellings positioned on the lower, eastern part of the site with a new access off of Bromley Lane. The western part of the site would be used as open space with the two areas separated by a fairly broad landscape buffer. More modest planting is proposed along the Bromley Lane boundary and to the rear of North End Cottages. The proposed planting would help to contain the development on its western side. However, the 35 dwellings and associated access, parking and garden enclosures would have an urbanising effect on the eastern area. Limited information has been provided on the open space. Nevertheless, in order to function effectively, active management of the land, as well as footpaths and associated paraphernalia, would be required and this would inevitably distinguish it from the adjoining undeveloped agricultural land. Consequently, I consider that the urbanising influence of the proposed scheme would extend further than just the area proposed for built development.
  12. The scale and density of built development would be significantly greater than the nearby properties and the openness of that part of the site would be almost completely lost. Furthermore, the proposal would create development in depth, which would be at odds with the loose knit, linear pattern of adjoining development. As such, it would create an abrupt and incongruous introduction to Much Hadham.
  13. The proposal would, therefore, result in a high magnitude of change and the landscape effect on the site would be large initially, although moderating somewhat over time as the planting matures. The same considerations indicate that proposal would also have a significantly harmful effect on the setting of this part of the CA. That said, the effect would be limited to the northern end of the CA and the harm to the heritage asset as a whole would be less than substantial.
  14. The LVIA assesses visual impact from three close range and three longer range viewpoints. I recognise that there is limited visibility of the site from the longer range viewpoints (Viewpoints (VPs) 03, 04 and 05). Viewpoint 6 looks towards the site obliquely and, therefore, maximises the screening effects of the buildings fronting High Street. A more direct view between the buildings would reveal more of the site and the magnitude of change and the significance of the effect in the short term, before the planting to the rear of North End Cottages matures, would be greater than predicted in the LVIA. That said, the effects would reduce as the buffer planting becomes established.
  15. For the reasons set out above, I have found that the proposal would be out of scale and character with its surroundings. It would, therefore, dominate in the view from VP1. Furthermore, given the height of the proposed buildings above Bromley Lane and the modest depth of planting on that boundary, I consider that the magnitude of change would not reduce significantly over time. As such, I find that the proposal would have a very large visual impact from VP1 and that the significance of the effect would be major. The topography of the site and the new planting would limit the visibility of many of the buildings from VP2. However, the proposed access road would be clearly visible and would open up views into the body of the site and to part of the built development. The associated site visibility splays and any earthworks required to

accommodate the change in levels between the site and Bromley Lane would add to the impact. As such, the magnitude of change would be medium/large and the significance of the effect would be moderate/major.

16. Overall, therefore, I find that the proposal would have a significantly detrimental effect on the character and appearance of the landscape and would lead to less than substantial harm to the setting of the CA. Consequently, it would conflict with Policies GBC14 and ENV1 of the LP. Together, these policies require development to be of a high standard of design which reflects local distinctiveness, complements the existing pattern of buildings, considers the loss of open land and conserves or enhances landscape features which strengthen local landscape character. Nor would it comply with LP Policy BH6 which requires development in or adjacent to conservation areas to be sympathetic to the character and appearance of the area and to respect important views into and out of the area.
17. The proposal would also conflict with Policies DES2, DES4 and HA4 of the DP to the extent that they have similar aims. I consider the weight to be attached to the cited policies in the Planning Balance below.
18. The proposal would also conflict with paragraphs 190, 192 and 193 of the Framework which require the desirability of sustaining and enhancing the significance of heritage assets and their settings to be taken into account and advise that great weight should be given to the asset's conservation irrespective of whether the harm is substantial or less than substantial. Paragraph 196 requires less than substantial harm to be weighed against the public benefits of the proposal. I do this in the Planning Balance below.

#### *Sustainable Travel*

19. Policy TR1 of the LP requires proposals to ensure that alternatives to private vehicle use are available to the users of the site. Policy TRA1 of the DP seeks to ensure that proposals are primarily located in places which enable sustainable travel and that a range of transport options are available to occupiers. Paragraphs 108 and 110 of the Framework seek to promote sustainable travel and give priority to pedestrian and cycle movements and access to high quality public transport.
20. I have already found that the appeal site is detached from the main built up area of Much Hadham. Whilst there is a footpath on the east side of High Street linking the site to the village, it is unlit and narrow in places. Moreover, although Much Hadham ranks quite highly for sustainability<sup>3</sup>, local facilities and services are concentrated 1200m or more from the site boundary.
21. The appellant's updated Transport Statement (TS)<sup>4</sup> refers to alterations to the junction of Bromley Lane and High Street in order to improve access to the existing footpath. Whilst I have no reason to doubt that this alteration would help improve pedestrian safety, it would not shorten the distance to the local facilities. The TS also refers to guidance on walking distances of less than 2km. However, the guidance is not referenced and it is not clear how its advice applies in this case. I also note that LP Policy TR1 refers to a maximum walk distance of 400m. In my view, given the distance and constraints involved in the route from the site, it would not be attractive or convenient for

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<sup>3</sup> East Herts District Council Final Village Hierarchy Study 2016

<sup>4</sup> Bellamy Roberts January 2018

future occupiers to walk to the local facilities in Much Hadham for their day to day needs.

22. High Street is fairly lightly trafficked and I recognise that the route would be more attractive to cyclists, although the lack of lighting would limit its appeal during the hours of darkness and inclement weather. There are bus stops reasonably close to the site and the appellant has submitted a unilateral undertaking (UU) which would secure the payment of a sustainable transport contribution to be used to provide bus stops near Spindle Bridge. Nevertheless, the existing bus service only runs every two hours and there is no service on Sundays. As such, it would not be likely to be preferable to travel by private car for the day to day needs of future occupiers. The TS suggests that a further contribution could be made to sustainable transport measures. However, this is not included in the submitted UU and, therefore, I am unable to give it weight. The Planning Practice Guidance advises against the use of a planning condition to secure financial contributions.
23. Consequently, I conclude that the proposal would not be well located with regard to sustainable travel options and would, therefore, conflict with LP Policy TR1, DP Policy TRA1 and Framework paragraphs 108 and 110. The first reason for refusal also cites LP Policy ENV1 and DP Policy DES4. However, these policies are mainly concerned with design quality and add little to my consideration of this issue.

### **Planning Balance**

24. The appellant considers that the Council cannot demonstrate a five year supply of housing land on the basis that the supply relies on sites in the emerging development plan. However, the Planning Practice Guidance advises that planning permission or an allocation is not a prerequisite for a site being deliverable in terms of the five year supply, although local planning authorities will need to provide robust, up to date evidence to support the deliverability of such sites (paragraph ref 3-031-20140306).
25. The PPG goes on to say that the examination of Local Plans is intended to ensure that up-to-date housing requirements and the deliverability of sites to meet a five year supply will have been thoroughly considered and examined prior to adoption, in a way that cannot be replicated in the course of determining individual appeals where only the appellant's evidence is likely to be presented to contest an authority's position (paragraph ref 3-033-20150327). The housing land supply position has been tested at a recent examination of the DP and the Inspector's report is clear that a robust analysis of sites shows that there is a supply of over 5.7 years. I also note that the AMR finds a 6.2 year supply. The appellant has not provided substantive evidence to dispute these findings. Consequently, on the basis of the available information, I consider that the Council can demonstrate a five year supply of housing land.
26. There is no firm evidence to indicate that the adopted development plan policies which I have relied on are otherwise out of date or inconsistent with the Framework. As such, I give them full weight. The emerging development plan is at an advanced stage and the Main Modifications version of the policies that I have relied upon have been found by the examining Inspector to be consistent with the Framework. Therefore, although the DP has yet to be adopted, the policies relevant to this decision can be afforded considerable

weight. On this basis, paragraph 11(d) of the Framework is not engaged and, since I have found that the proposal conflicts with relevant development plan policies, the presumption in favour of sustainable development does not apply. The proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.

27. The proposal would provide 14 affordable housing units to be secured through the UU. This provision accords with LP Policy HSG3 and is supported by the findings of the Council's Housing Topic Paper Update August 2017. Affordable housing is also a Government policy priority. There is no substantive evidence to show that the proposed affordable housing would render the appeal proposal unviable. Therefore, it amounts to a benefit carrying significant weight.
28. The UU would also secure a financial contribution of £500,000 towards community assets to be used for the extension and refurbishment of the village hall or 'such other allocations' as arise as a result of the development. However, it has not been adequately demonstrated how this contribution is necessary to make the development acceptable in planning terms or directly related to the development. Therefore, it has not been shown to comply with Regulation 122 of the Community Infrastructure Regulations 2010 (CIL Regs) and I have not taken it into account.
29. The other financial contributions provided in the UU have been justified by reference to the County Council's Planning Obligations Toolkit and the East Herts Planning Obligations Supplementary Planning Guidance. As such, whilst I have taken them into account, they are modest benefits since they are necessary to make the development acceptable and policy compliant.
30. The proposal would also provide moderate economic benefits through additional expenditure in the local economy by future occupiers and, in the short term, construction jobs and expenditure.
31. Nevertheless, bearing in mind the great weight to be attached to the proposal's harm to the setting of the CA, its significantly detrimental impact on the character and appearance of the landscape and the site's poor location in terms of sustainable travel, I find that the benefits of the proposal do not outweigh the harm.

#### *Other Matters*

32. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.
33. I have had regard to the relevant obligations in the UU in the Planning Balance set out above. However, since the appeal is to be dismissed for other substantive reasons, it is not necessary to consider in further detail whether the UU meets the tests set out in the CIL Regs.

#### **Conclusion**

34. For the reasons set out above, the appeal should be dismissed.

*Simon Warder*

INSPECTOR