



## Appeal Decision

Hearing held on Tuesday 27 February 2018

Site visit made on Tuesday 27 February 2018

**by R Barrett BSc (Hons) MSc MRTPI IHBC DipTP MRTPI**

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

**Decision date: 22<sup>nd</sup> March 2018**

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**Appeal Ref: APP/J1915/W/17/3181608**

**Land at North Drive, High Cross, Hertfordshire SG11 1AR**

- 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 Sean Harries of Beechwood Homes Ltd, against the decision of East Herts Council.
  - The application Ref 3/17/0251/FUL, dated 1 February 2017, was refused by notice dated 21 June 2017.
  - The development proposed is described as 'erection of 20 dwellings with associated parking, landscaping and access'.
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### Decision

1. The appeal is allowed and planning permission is granted for 'erection of 20 dwellings with associated parking, landscaping and access' at Land at North Drive, High Cross, Hertfordshire SG11 1AR, in accordance with application Ref 3/17/0251/FUL, dated 1 February 2017, subject to the planning conditions set out in annex 3 to this Decision.

### Preliminary Matters

2. The description of development above is taken from the Council's decision notice as it more accurately describes the development sought. As there was not appeal site address on the application form and that on the Council's decision notice was incomplete, the full address, including postcode was agreed by both main parties at the Hearing and is reflected in the banner heading and my formal Decision above.
3. The Council's letter of notification of the appeal Hearing, dated 21 December 2017, does not indicate the time of the event. However, that letter noted the day and venue correctly and recipients could have contacted the Council for clarification if required. It was also confirmed that the Thudridge Parish Council communicated the time by letter to local residents and on their web site. Further, the event lasted most of the day. Therefore, taking all of this into account, I am confident that all those who wished to be present had an opportunity to be so. That all parties at the Hearing accepted that point gave me further assurance on this matter.
4. During the course of the appeal, the Council changed its position on its five year housing land supply (5YHLS). It now considers that it can demonstrate a 5YHLS. This has been taken into account in my Decision, along with the appellant's comments in this regard.

5. The examination into the Draft East Herts Local Plan (2016) (eLP) is underway and consultation on the Inspector's main modifications was taking place at the time of the Hearing. As that document is at an advanced stage of preparation, I attach significant weight to it in making my Decision.
6. I am aware that on 5 March 2018, the draft revised National Planning Policy Framework was published. This is a draft that is subject to consultation and does not change my conclusions on this appeal.

### **Main Issues**

- Whether it would preserve the special architectural or historic interest of St John the Evangelist Church (the Church) and the Rectory, both grade II listed buildings and designated heritage assets; and
- The effect of the appeal development on the character and appearance of the locality.

### **Reasons**

#### *Listed Buildings*

7. The Church and the Rectory are located close to the appeal site. The settings of those listed buildings include the intended visual and functional relationship between the two, the graveyard around the Church and the gardens around the Rectory and the wider countryside beyond. The latter serves as a reminder of their former more rural landscaped setting of which the Glebe, which is the appeal site, forms a part. The Glebe, having been in the same ownership as the Church and the Rectory was intended as land to support the minister. Whatever the design intent of those listed buildings, the appeal site has a historic and visual connection with the Church and the Rectory and today contributes to an understanding of their history. For these reasons, it contributes to the significance of those listed buildings.
8. As a result of development on the Glebe, the appeal scheme would somewhat erode the semi-rural setting of the listed buildings. However, that has already been diminished by existing development nearby and the impact of the appeal development in this context would be limited. The proposed development would marginally reduce an understanding of the historic connections between the Glebe, the Church and the Rectory. However, the primary relationship is that between the Church and the Rectory, which would not be affected. Further, the field boundary would be retained along with most of the boundary planting, with some reinforcement, and some open space would be included, such that the harm would be very limited. Whilst the proposed development would be closer than existing development, due to the separation distance, intervening planting, the height and layout of the proposed development, including some open space, views of the Church and the Rectory from North Drive would not be materially interrupted, in the day or night. That the Church was designed to be seen at some distance, adds weight to this conclusion. All in all, some limited harm to the setting of those listed buildings would result. However, for all the above reasons that limited harm would not adversely affect the significance of those designated heritage assets.
9. I consider that the appeal proposal would preserve the special architectural or historic interest of the Church and the Rectory, both grade II listed buildings and designated heritage assets. For this reason, it would generally accord with

East Hertfordshire Local Plan Second Review (April 2007) (LP), Policy DES3. That policy aims for a high standard of design and layout that reflects local distinctiveness. Whilst I note that emerging policies are not adopted and the wording may be subject to change, the appeal would also generally accord with the overall aims of East Herts Draft Plan (2016) (eLP) Policies HA1 and HA7. Those policies, together, aim for development to preserve and enhance the historic environment.

### *Character and Appearance*

10. The appeal site includes a mainly open meadow. It is generally grass with trees and planting. The trees sit predominantly around the edges and are protected by High Cross Vicarage Tree Preservation Order, dated January 1972. It has most recently been used as grazing. The appeal site is surrounded by dwellings and other development on all sides.
11. North Drive is set off the main road that runs through High Cross. It is an undedicated road and bridle way that runs from High Road through to Home Farm and the open fields beyond. It comprises mainly housing with some variety in their layout, style and age. However, generally there is some consistency in the scale, form and height of dwellings and their generally spacious layout, with large rear gardens, planting and hedges. As it is close to open countryside beyond and includes hedges and planting, it has a generally semi-rural character and appearance. The appeal site, which fronts onto North Drive, its openness, trees and planting, together with the Church and the Rectory in the background and the collection of historic buildings, including the village hall and school, within High Cross for which the land was gifted by a local benefactor, all contribute to that character and appearance.
12. The appeal site is set back from the main road that passes through High Cross along a secondary undedicated road and bridleway. It is surrounded by development on all sides and views into it are restricted by boundary planting including trees, even when they are not in leaf. It is not publically accessible and does not have a community use. Therefore, whilst it does provide a break in development, is an attractive space and provides foreground to some distant views of the Church and Rectory, it has a limited role in defining the form or setting of the village. This assessment generally accords with that of the Inspector in examining the LP to which I attach significant weight. I note that a different assessment was made within the Strategic Land Availability Assessment carried out as part of the eLP. However, the eLP is not yet adopted, which reduces the weight I accord its evidence base for the purposes of this appeal.
13. My attention is also drawn to a Council's previous planning decision (Ref 3/11/0427/FP). However, that considered the merits of dog training taking place at the appeal. That is a significantly different use to the one before me, which limits the weight I accord it in making my Decision.
14. The appeal scheme would result in development on the greater part of a green field site and would reduce the amount of open land in the locality. However, this is a consequence of any development on a green field site and as development already surrounds the appeal site, more dwellings would not appear out of place. Further, the appeal development would include a large area of open space, sited roughly centrally within the appeal site and the proposed layout would include large rear gardens and would generally be

spacious. As development already surrounds the appeal site and it is bordered by planted boundaries which restrict views from North Drive, it would not materially erode the sense of spaciousness in the locality. Further, the proposed landscaping has the potential to open up views from North Drive into the appeal site. As the appeal scheme would retain the majority of trees and boundary planting, would be set back from North Drive behind a green area and would include new landscaping and planting, it would not harmfully impact the semi-rural characteristics of the locality that I have identified. The layout, form and design of dwellings would pick up on characteristics that I observed in the locality. For all these reasons, it would not harmfully affect the locality's character and appearance.

15. It was suggested that the appeal site had a community character and function. However, at present it is a private field with no public access. The character and function of the appeal site would change from a private field with no public access, to dwellings with some publically accessible open space. For all the reasons previously stated, such a change in character and function would not be unacceptably harmful.
16. I conclude that, overall, the appeal proposal would preserve the character and appearance of the locality and would generally accord with LP Policies OV1, ENV1 and HSG7. Those policies, together, aim for small scale and infill housing development to be of a high standard of design and layout and reflect local distinctiveness. It would generally accord with eLP Policies VILL2 and DES3, which allow for limited infill in Group2 villages and seek a high standard of design and layout in development. As the Council explained that eLP Policy VILL2 does not provide a definition of 'limited infill', on the basis of the size of the proposed development, and the character and appearance of the locality, in the circumstances of this appeal, I find no conflict would result.

## **Other Matters**

### *Legal Agreement*

17. A legal agreement is before me, in the form of a Unilateral Undertaking. That sets out a number of provisions aimed to mitigate the impact of the proposed development. The provisions provide for affordable housing, improvements to North Drive, amenity green space, improvements to a village hall, library services and the provision of fire hydrants. For each, a development plan policy has been identified, the means by which the contribution has been calculated is before me and, where on-site provision is not proposed, a project in the locality has been identified, to which the proposed provisions would contribute. Where appropriate, it has been confirmed that none would exceed five contributions. On this basis, I consider that appropriate evidence is before me to demonstrate that such contributions would meet the tests set out in Regulations 122 and 123 of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended). All of the above provisions therefore are benefits of the proposed development and weigh in its favour.

### *Other Third Party Concerns*

18. There is concern from local residents regarding the traffic that would be generated, access arrangements, parking provision and proposed works to North Drive and High Road. I appreciate that more traffic would be using North Drive and the junction with High Road. However, I am satisfied, on the basis

of the proposed traffic generation, road and traffic conditions in the locality, proposed alterations to North Drive and High Road, along with the proposed access with visibility splays, that, subject to detail that could be controlled through planning conditions, a harmful impact on highway safety would not result. Whilst I note concerns regarding parking and access particularly for emergency vehicles along North Drive, the proposed parking arrangements would comply with the Council's adopted parking standards. I am therefore satisfied that the situation would not be worsened by this development. Overall, I have noted that the Highway Authority does not object to the proposed development and in the absence of substantive evidence to the contrary, I have no reason to take an alternative view on this matter.

19. It was confirmed at the Hearing that a Neighbourhood Plan for Thudridge (NP) was being prepared. Public engagement had taken place and it was expected that consultation would begin at the end of March 2018 on a draft document. However, no document is before me. I am therefore unable to attach weight to it in making my Decision. However, I have taken into account the results of public engagement carried out as part of the preparation of the NP brought to my attention and its intention to allocate the appeal site as an 'Open Green Space' and Asset of Community Value.
20. A Flood Risk Assessment has been carried out. That indicates that the appeal development would be at a low risk of fluvial and surface water flooding as it would include a drainage system that would protect neighbouring development and water quality. The implementation of the drainage measures could be dealt with by appropriately worded planning conditions.
21. The appeal site, consisting of rough grassland with some trees, has limited ecological and biodiversity value and therefore, on the basis of the evidence before me, this does not present a constraint to development. Whilst some trees would be removed, the proposed landscaping would include tree planting which would compensate for any loss.
22. The proposed development would be within an established settlement with some facilities, services and some public transport. Whilst realistically some reliance on private vehicles would be expected for some higher order shopping and employment opportunities, its location would offer some potential for future occupiers to use methods of travel other than the private vehicle.
23. As the proposed dwellings would be some distance from neighbouring properties and noting the existing and proposed planting, no harmful impact on the living conditions of neighbouring occupiers, with regard to outlook, daylight or sunlight would be a likely consequence. I accept that private views from surrounding properties, including the Rectory, would be changed by the proposed development. However, for the above reasons, that would not constitute harm. Further, I have limited substantive evidence before me to suggest that existing services and facilities would be inadequate to serve the future occupiers or that the proposed development or that it would be out of scale with the size of High Cross.
24. The presence of other listed buildings nearby and Youngsbury Grade II\* Register Park and Garden are brought to my attention. However, due to the separation distance, no impact on those heritage assets would be a consequence of this appeal.

25. The Council has submitted evidence to indicate that it can now demonstrate a 5YHLS. No substantive evidence to the contrary is before me. However, on the basis of my conclusions on the main issues of this appeal, as this matter would not affect its outcome, I have no reason to consider it further.

### **Planning Balance**

26. The appeal development would deliver additional dwellings, plus affordable homes close to existing facilities and services, near to some public transport. It would provide some open space including a play space which would be publically accessible and some drainage measures that would be of benefit to the wider area. It would include improvements to North Drive which would be a benefit to all those using it, even though I acknowledge that it would not be adopted by Hertfordshire County Council. It would provide jobs during the build period and future residents would provide additional support for local services and facilities. There would also be some planting and landscaping, which would have biodiversity benefits. These public benefits, as a package, would be substantial.
27. In respect of adverse impacts, there would be some limited harm to the character and appearance of the locality through the loss of a green field site and open land within the locality. There would be some limited harm to the setting of listed buildings, but overall that would not affect their significance as designated heritage assets. Although some facilities and services would be within walking and cycling distance of the appeal site, future residents would be likely to have some reliance on private motor transport to access employment and higher order shops. However, taken together, the adverse impacts would be limited.
28. Weighing this all up, generally the appeal development would provide substantial public benefits and the adverse impacts would be limited. I found no conflict with the adopted development plan. Therefore, in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be allowed.

### **Planning Conditions**

29. A list of suggested planning conditions was agreed between the two main parties at the Hearing. I have agreed with the imposition of most of these, subject to refinement to improve clarity and ensure consistency with national policy and guidance.<sup>1</sup> A list of planning conditions to be imposed is set out in Annex 3.
30. Standard time and plans conditions are required to provide certainty in the planning process. Conditions to secure external materials and hard and soft landscaping are necessary to ensure that the development blends into the locality. A condition to ensure that archaeology is protected is necessary as the appeal site lies within an Area of Archaeological Significance relating to the medieval settlement of High Cross. Conditions to secure adequate visibility splays and ensure garages are retained to park vehicles are required to ensure highway safety and on the basis of the existing vehicle conditions in North Drive. Conditions to control water runoff, avoid flooding and deal with any contamination are required in the interests of public health and safety. To

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<sup>1</sup> Paragraphs 203 and 206 of the Framework and PPG paragraphs 21a-001-034



ensure development does not unduly disturb local residents, I have conditioned a construction method statement. I have also secured the provision of the play area to ensure it serves the needs of the proposed development.

**Conclusion**

31. For the above reasons, and taking all other matters raised into consideration, having noted all the comments from third parties, I conclude that the appeal should be allowed subject to the conditions listed in Annex 3 to my decision.

*R Barrett*

INSPECTOR

## **Annex 1**

### **APPEARANCES**

#### **FOR THE APPELLANT:**

Mr S Harries	Beechwood Homes Ltd
Ms M Owen	Boyer Planning
Mr M Strawbridge	Museum of London Archaeology

#### **FOR THE COUNCIL**

Mr D Snell	Principal Planning Officer
Mr G Pavey	Senior Planning Policy Officer

#### **OTHER PARTIES:**

Mr A Cheadle	Local Resident
Mr D Finn	Local Resident
Mr D Hagland	Local Resident
Ms K Rust	Local Resident
Ms J Veater	Planning Advisor to Thudridge Parish Council and TNP
Mr R Hallman	Chair TNP Steering Group
Ms C Archer	Parochial Church Council
Cllr S Bosson	Parish Councilor
Cllr D Andrews	Ward Councilor



## **Annex 2**

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Council's justification for planning obligations sought
2. Extract from Statement of Common Ground and missing plans
3. List of agreed conditions plus parking standards bundle
4. Copy of emerging eLP Policy HA7

## **Annex 3**

### **LIST OF PLANNING CONDITIONS**

- 1) The development to which this permission relates shall be begun within a period of three years commencing on the date of this notice.
- 2) The development hereby approved shall be carried out in accordance with approved plans: 22429A-01rev D; 02 rev C; 03 rev B; 04 rev B; 07 rev D; 08 rev D; 09 rev C; 10 rev B; 11 rev C; 12 rev C; 13 rev C; 14 rev C; 15 rev C; 16 rev C; 17 rev A; 18 rev B; 19 rev C; 20 rev C; 21 rev B; 22 rev C; 25 rev D; 26 rev E; 27 rev A; 28 rev C; 002 rev S; 101 rev C; 100 rev C; 122-PL-002 001 rev C; 122-PL-002 rev C; Tree retentions and removals plan; Tree survey and root constraints plan.
- 3) Prior to the commencement of development a written scheme of archaeological investigation shall be submitted to and approved in writing by the local planning authority and implemented in full accordance with those details. The development shall thereafter be carried out in accordance with the approved scheme. The resultant archaeological reports shall be submitted to and approved in writing by the local planning authority prior to first occupation of the development hereby approved.
- 4) No development shall commence until a schedule and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with approved details.
- 5) The hard and soft landscaping works shall be carried out in full in accordance with the approved details before any part of the development is first occupied. Any tree or shrub planted in accordance with the approved details which is removed, dies or becomes diseased within a period of five years from first being planted shall be replaced by one of a similar size and the same species in the first available planting season.
- 6) The garages, hereby approved, shall be retained for parking private vehicles of the occupants and their visitors of the dwelling of which it forms a part.
- 7) Before first occupation of the proposed development, visibility splays of 2.4 metres X 25 metres shall be provided in each direction, within which there shall be no obstruction to visibility between 600mm and 2 metres above the carriageway. The visibility splays shall be implemented and permanently retained in accordance with those details.
- 8) The development shall be carried out in accordance with SDP Consulting Engineers Flood Risk Assessment, dated 10 January 2017. The mitigation measures itemised within that report shall be fully implemented prior to the first occupation of the development and in accordance with phasing arrangements embodied within that Assessment. Measures shall be permanently retained as constructed to include:

- attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year plus climate change events;
  - limiting surface water run-off generated by the 1 in 100 year plus climate change critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site;
  - the SUDS measures set out in proposed layout E15-043-101-P1.
- 9) Prior to first occupation of the development a management and maintenance plan for the sustainable drainage features hereby approved shall be submitted to and approved in writing by the local planning authority. The drainage features shall be thereafter maintained in accordance with the approved details.
- 10) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- i) the parking of vehicles of site operatives and visitors;
  - ii) the routing of delivery vehicles;
  - iii) loading and unloading of plant and materials;
  - iv) storage of plant and materials used in constructing the development;
  - v) wheel washing facilities;
  - vi) delivery, demolition and construction working hours.
- The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 11) Prior to commencement of development, a Phase 2 investigation report, as recommended by Southern Testing Environmental and Geotechnical, dated 13 September 2016, shall be submitted to and approved in writing by the local planning authority. Where found to be necessary, a remediation strategy shall be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is first occupied.
- 12) Prior to the commencement of development above ground, detailed plans of the play area as shown on approved plan 22429A/002 Rev S, shall be submitted to and approved in writing by the local planning authority. The play area shall be constructed in accordance with those approved details

prior to first occupation of the development. The play area shall be permanently retained as a play area.