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## Appeal Decision

Site visit made on 17 February 2015

**by Michael J Hetherington BSc(Hons) MA MRTPI MCIEEM**

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

**Decision date: 4 March 2015**

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**Appeal Ref: APP/X1925/A/14/2218194**

**Reed House, Jacksons Lane, Reed, Royston, Hertfordshire, SG8 8AB**

- 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 David Tait against the decision of North Hertfordshire District Council.
  - The application ref. 13/01999/1, dated 17 August 2013, was refused by notice dated 28 March 2014.
  - The development proposed is the erection of 13 dwellings and a business/IT building.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Although the appeal development is described on the application form as the 'erection of 13 dwellings' it is clear from the appeal form, the appellant's statement, the application plans and the Council's decision notice that it also proposes a business/IT building. I have determined the appeal on that basis.
3. The application form indicates that all matters of detail apart from access and layout are reserved for future determination.

### Main Issue

4. The Council is unable to demonstrate a five year housing land supply, as required by the National Planning Policy Framework (the Framework). It follows from paragraph 49 of the Framework that relevant policies for the supply of housing cannot be considered to be up-to-date.
5. The Council's 1<sup>st</sup> refusal reason cites a conflict with policy 6 of the North Hertfordshire District Local Plan No. 2 with Alterations. This sets out particular criteria to be met if development is to be allowed in rural areas beyond the Green Belt, such as the present location. Insofar as this policy acts to limit the location of housing development, I agree with the appellant that it can be considered to be a policy for the supply of housing in the terms of the Framework. Furthermore, it is some 19 years old. Therefore, while it is clear that the appeal scheme would not satisfy any of its relevant criteria, I attach little weight to this policy conflict. This view is broadly consistent with that of an Inspector who dismissed an appeal relating to a proposal for 13 houses on the appeal site in 2012 (ref. APP/X1925/A/11/2166833).

6. In cases where paragraph 49 of the Framework applies, paragraph 14 of the same document states (unless material considerations indicate otherwise) that permission should be granted unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or specific policies in the Framework indicate development should be restricted. It is not disputed that the appeal scheme would increase the local supply of housing.
7. Bearing this context in mind, the main issue in this appeal is whether the presumption in favour of granting planning permission set out in paragraph 14 of the Framework is overcome by any other considerations, namely:
  - (a) whether the proposed development would give rise to a significant reliance on private transport;
  - (b) the effect of the proposal on the setting of the Reed Conservation Area;
  - (c) its effect on the area's character, appearance and landscape setting; and
  - (d) whether adequate provision can be made to accommodate surface water run-off.

## **Reasons**

### *Reliance on Private Transport*

8. The village of Reed lies some three miles south of Royston. Local facilities include a school (for ages 3-9), village hall, children's playground, sports field, parish church, chapel and mobile library. The public house was vacant at the time of my site visit. There is a transport café and garage on the nearby A10. The village is served by a number of bus routes, which pass the appeal site.
9. The matter of the scheme's reliance upon private transport was also considered by the previous Inspector. In summary, he reached the view that while the introduction of a significant number of dwellings into the village could add support for existing facilities, the development itself would add to private car traffic and the number of journeys into towns. He felt that this would conflict with the Framework's aims of promoting sustainable development generally and sustainable transport in particular.
10. The appellant notes that the Council has recently granted planning permission for a development of 12 dwellings on a site at Brickyard Lane, Reed. It is contended that this amounts to a significant policy step-change in the Council's approach to the principle of new development in the village. However, I have not been made aware of any changes to relevant development plan policies. The Council has not withdrawn its 2<sup>nd</sup> refusal reason (relating to private transport use) in the present appeal. In respect of the Brickyard Lane decision, it comments that the particular features of the development concerned were sufficient to overcome the concerns raised by its officers, which included a similar refusal reason to that cited in the present appeal. I am not aware of the full circumstances of the Brickyard Lane proposal and, in any event, I must deal with the present appeal on its own merits.
11. Irrespective of the Brickyard Lane decision, and notwithstanding the inclusion of a business/IT building in the present scheme – an element that would accord with the Framework's support for flexible working practices – it seems to me that there has been no material improvement in the appeal site's accessibility

since the date of the last appeal decision. The range of services and public transport facilities available to the village does not appear to have changed significantly since that time. While the appellant states that a small hybrid or electric car facility (probably comprising two vehicles with charging points) powered from a nearby solar plant has been considered, it is unclear how this would be secured through planning legislation. Furthermore, given that no specific car ownership restrictions are being proposed in respect of the scheme, I share the Council's view that a small facility of this type this would be unlikely to significantly reduce private car movements associated with the development.

12. Taking the above factors together, I see no reason to take a different view to that of my colleague in 2012 in respect of this matter. Accordingly, I consider that the scheme would be likely to give rise to a significant reliance on private transport. This would conflict with relevant requirements of the Framework, including the principle (included in paragraph 17) of actively managing patterns of growth to make the fullest use of public transport, walking and cycling.

#### *Conservation Area*

13. The appeal site adjoins the Reed Conservation Area. This was described by an Inspector in an earlier (2005) appeal (noted in the 2012 appeal decision), as having an informal street layout with dispersed dwellings built amongst open fields and farm buildings. I find no reason to disagree with that assessment. In addition, I accept the view of my colleague in the 2012 appeal that openness is a key attribute of the Conservation Area, particularly in respect of the presence of a meadow in the centre of the village and the generally wide spacing between buildings or groups of buildings. I also agree with the later Inspector that the appeal site is screened from the Conservation Area by the existing houses and vegetation along Jacksons Lane. As such, views of the appeal scheme – the appearance and scale of which have yet to be finalised – would be limited. Furthermore, the intended site access would be well-separated from the Conservation Area. For these reasons, I consider that the scheme would not adversely affect the Conservation Area's setting.

#### *Character, Appearance and Landscape Setting*

14. The Council's 4<sup>th</sup> refusal reason, which relates to the siting, design and layout of the scheme, refers to paragraph 53 of the Framework. This paragraph requires local planning authorities to consider the case for setting out policies to resist inappropriate development of residential gardens. However, I have not been referred to any development plan policy that has been prepared in that context. Accordingly, I share the appellant's view that this paragraph does not bear directly upon the appeal proposal.
15. Nevertheless, I am aware that the previous (2012) Inspector objected to the last scheme in respect of this matter. Specifically, he was concerned about the layout of that proposal: he considered that this would not be as tight-knit as the smaller modern groups or the farm buildings found in the village, nor would it have the linear character of more traditional houses. However, he noted that the visual impact on the open land to the north would be limited by screening.
16. In the present case, the appeal scheme proposes three groups of buildings around the edge of the site with amenity space in the middle and on The Joint frontage. To my mind, this arrangement would be broadly consistent with the

pattern of tight-knit building groups separated by more open areas described above. The screening along the site's northern boundary remains in place, limiting views towards (or from) the land to the north. I see no reason in principle why appropriate building designs and sympathetic landscaping within the site could not be achieved: were the scheme otherwise acceptable, these are matters that could be considered at the reserved matters stage. Subject to this, I am satisfied that the area's character, appearance and landscape setting would not be materially harmed.

### *Surface Water Drainage*

17. The Environment Agency (EA) objects to the scheme on the grounds that it has not been shown, first, that the entire drainage system could be contained within the application site and, second, that the capacity of the final receiving pond in the garden of Reed House is sufficient to cope with surface water flows arising from the development. These factors, it is stated, could result in an increased risk of flooding both within and outside the site.
18. In response to the EA's concerns the appellant has commissioned a consulting engineer to prepare a drainage scheme (drawing no. 10-5217\_XX-DR-D200 PL1). In respect of surface water discharge, this relies on land that lies outside the red-line site boundary on the plans that were determined by the Council. Specifically, the final receiving pond, which lies to the south of Reed House, and part of storage pond 2 lie outside that boundary. While an updated site plan has been submitted (no. 0870/200D) that includes an additional area (sufficient to accommodate the remainder of storage pond 2) within the red-line boundary, this post-dates the Council's refusal of planning permission. It seems to me that this amounts to a material change to the original planning application that, if accepted at this stage, could prejudice other parties' cases. Furthermore, the extended area does not include the final receiving pond.
19. It is accepted that the relevant land is within the appellant's control. However, I share the EA's concern that if its ownership were to be separated from that of the appeal site, the continued integrity of the drainage system could not be guaranteed. The appellant suggests that in such circumstances the ponds could be covenanted to be maintained for surface water drainage purposes, adding that it would be in the interests of the appellant (who occupies Reed House) to do so. However, no mechanism has been put forward that would enable this outcome to be secured through a grant of planning permission. Given the need for ongoing maintenance and management, which would need to be undertaken irrespective of any future changes in ownership, I do not feel that the imposition of a planning condition would be sufficient for that purpose.
20. For these reasons, I cannot be sure that the necessary surface water drainage arrangements would be secured in the event that planning permission were to be granted for the scheme. Accordingly, it has not been demonstrated that adequate provision can be made to accommodate surface water run-off. Failure to make such provision could result in an increased risk of flooding.
21. In addition, it is unclear whether the EA's technical concern in respect of the capacity of the final receiving pond to accept additional surface water inflow has been satisfactorily addressed. Were the proposed drainage arrangements otherwise acceptable, this is a matter upon which I would seek clarification. However, it does not affect my comments above.

*Overall Conclusion*

22. For the reasons set out above, I consider that the scheme would not adversely affect the Conservation Area's setting and that, subject to the consideration of remaining details at the reserved matters stage, the area's character, appearance and landscape setting would not be materially harmed. However, I have also found the scheme would be likely to give rise to a significant reliance on private transport and that it has not been demonstrated that adequate provision can be made to accommodate surface water run-off. Given the above-noted principle of paragraph 17 of the Framework, and noting the Framework's provisions in respect of flood risk (notably at paragraph 103), these adverse effects would significantly and demonstrably outweigh the scheme's benefits when assessed against the policies in the Framework taken as a whole. I conclude that these matters are sufficient to overcome the presumption in favour of granting planning permission set out in paragraph 14 of the Framework.
23. The appellant has submitted a unilateral undertaking in respect of various contributions. The Council notes that the red-line boundary of the plan attached to the undertaking does not accord with the site boundary on the drawings that it considered. Were matters otherwise acceptable, and bearing in mind my comments above about the status of the amended site plan, this is a matter that I would raise with the appellant. However, given my conclusion above, it is not necessary for me to reach a view on whether the undertaking meets the relevant legal requirements.
24. I have considered all the other matters raised, but none change my overall conclusion that the appeal should not succeed.

*M J Hetherington*

INSPECTOR