
Appeal Decision

Site visit made on 6 December 2016

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 21 December 2016

Appeal Ref: APP/J1915/W/16/3158775

Top Pots Garden Centre, Westmill Farm, Ware, Herts SG12 0ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr David Vigus against the decision of East Herts Council.
 - The application Ref 3/16/1648/FUL, dated 19 July 2016, was refused by notice dated 9 September 2016.
 - The development proposed is to remove existing portakabin office and build a building to accommodate office and create some new retail/storage space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The National Planning Policy Framework (NPPF) of 2012 says at paragraph 89 that new buildings should be regarded as inappropriate in the Green Belt unless they fall within certain exceptions listed in the policy. No evidence has been put forward to dispute that the proposed new building, which is intended to contain commercial offices, workshop, storage and a display area, would be inappropriate development in the Green Belt, in the terms of the NPPF and development plan policy.
3. The main issues are therefore as follows:
 - The effect of the proposed new building on the openness of the Metropolitan Green Belt;
 - The sustainability of the chosen location; and
 - Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

4. The development plan for the area includes saved policies of the East Herts Local Plan Second Review of April 2007 (LP). Policy GBC1 says that within the Metropolitan Green Belt, permission will not be given for inappropriate development unless very special circumstances can be demonstrated that clearly outweigh the harm by reason of inappropriateness or any other harm. The SD series of policies seek sustainable development: policy SD1 is referred to in the reason for refusal but this proposal does not fall within the criteria listed and the policy does not apply. Policy SD2 indicates that development in the district will be concentrated in the main settlements of Bishop's Stortford, Hertford, Ware, and Sawbridgeworth, with some development directed towards Stanstead Abbots, St. Margarets and Buntingford. The explanatory text says that it is Government policy to develop land within urban areas, particularly town centres and previously

developed or brownfield sites in preference to greenfield sites. The site lies outside any of these settlements. Policy STC1 advises that the preferred location for new retail development and proposals for other key town centre uses, will be town centres followed by edge-of-centre sites in line with a sequential approach.

5. The LP is now of some age and the NPPF is a significant material consideration. Paragraph 215 says that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the LP to the policies in the NPPF, the greater the weight that may be given). Section 9 advises on the Green Belt and the general approach is the same as set out in policy GBC1, except in the precise wording of the 'exceptions' (that is, development which should be regarded as not inappropriate). I consider that policy GBC1 continues to attract substantial weight.
6. With regard to ensuring the vitality of town centres, the NPPF seeks sustainable development, which has 3 dimensions: economic, social and environmental. Town centres are recognised as the heart of their communities wherein viability and vitality should be supported. To this end, paragraph 24 indicates that a sequential test should be applied for main town centre uses. Having said that, the NPPF desires a prosperous rural economy including diversification. Paragraph 25 says specifically that a sequential test should not be applied to small scale rural offices or other small scale rural development. The proposed use is not a main or key town centre activity. Policy STC1 attracts less weight because of this more recent guidance in the NPPF.
7. The NPPF advises at paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on to say that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Openness

8. Westmill Farm is the location for a number of diverse enterprises unconnected with agriculture, developed over several years, including a garden centre, a camping and caravanning site, golf course, model race track and various retail and commercial activities together with car parking. The proposed building would be similar to other timber clad buildings on the site forming a loose complex around the former farmstead, but would be on its northern edge adjacent to a single storey glasshouse used by the Top Pots Garden Centre business. It would replace a much smaller portakabin used by Top Pots as an office. As such, in principle, it would be clearly visible and would significantly add to the amount of existing built form. It would diminish the openness of the Green Belt in the immediate area. Although the surrounding land is used for storage for items associated with the garden centre, those materials are temporary in nature. The character of this part of the Green Belt is mainly of open grassland albeit that it is now largely used for recreational purposes.
9. The NPPF indicates that the essential characteristics of Green Belts are their openness and their permanence. The harm to openness caused by this proposal conflicts with national guidance in the NPPF that aims to keep Green Belt land permanently open.

Sustainability

10. The building would be used partly by 'Top Pots' but most of the new floorspace would be used by Bentleys, a firm of plumbers who wish to use it for offices,

storage and retailing. Outside storage space would be used for retailing bottled gas. The appellant advises that Bentleys need to vacate their premises in Hertford due to a new housing development, where it is suggested that storage of bottled gas would in any case be inadvisable. Although it is appreciated that customers for bottled gas are unlikely to use public transport to reach Westmill Farm, employees of the company would still need to reach the new premises. No information has been provided on the availability of public transport and the appellant advises that all those using the new office and shop will use their own means. That is most likely to be by private car. This would be contrary to a core principle of the NPPF which is to manage patterns of growth to make the fullest use of public transport, walking and cycling, thus contributing to the environmental role of sustainable development. The development would also not be in any of the locations identified in policy SD2.

Other considerations

11. The displacement of a town centre business by housing and the need to find alternative premises suitable for the storage of gas canisters is a material planning consideration. The encouragement of thriving economic development is a core principle in national policy guidance. However, in this case, very few details have been provided of Bentley's current site and there is no evidence to show that any other more suitable and sustainable locations nearer to a settlement have been considered. Although not a major town centre use in this case, the NPPF indicates that the environmental dimension of sustainable development is an important consideration. The location of development which does not need a countryside location away from main centres, where people live and public transport is available, is to be resisted. The proposed development would conflict with this principle.

Conclusion

12. Where further diversification of a rural enterprise is proposed in the Green Belt, any conflict with the strong policy emphasis on the maintenance of openness, together with the harm due to inappropriateness and the harm due to the poor sustainability merits of the location can only be justified by demonstrating, not special circumstances, but very special circumstances. This is intentionally a high hurdle to be overcome. There is no information on the potential for sites elsewhere which do not have the disadvantages shown to exist at Westmill Farm. The NPPF advises that substantial weight attaches to the harm to the Green Belt by reason of inappropriateness. There would be harm to openness and environmental harm due to the need to use private transport to access the site. I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist. The scheme conflicts with LP policy GBC1 and the objectives of national policy in the NPPF.
13. I conclude that for these reasons, the appeal should be dismissed.

Paul Jackson

INSPECTOR