
Appeal Decision

Site visit made on 10 January 2017

by John Dowsett MA DipURP DipUD MRTPI

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

Decision date: 17th January 2017

Appeal Ref: APP/J1915/W/16/3159883

Land adjacent to Nutwood House, West End Road, Wormley, Hertfordshire EN10 7QN

- 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 A Shutes against the decision of East Hertfordshire District Council.
 - The application Ref: 3/16/0867/OUT, dated 8 January 2016, was refused by notice dated 8 June 2016.
 - The development proposed is the erection of a detached dwelling.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The development proposal in was submitted in outline, and the application form makes it clear that approval is also sought at this stage for access, layout and scale. The submitted drawings included a site plan which shows the siting of the proposed dwelling within the appeal site and the position of the proposed site access. The submitted Design and Access Statement sets out that the proposed dwelling would have a footprint of 16 metres by 8 metres, with a maximum height to the ridge of 7.5 metres, and that the attached garage block would have a footprint of 7 metres by 7 metres. I have had regard to these submitted details and have determined the appeal on this basis.

Main Issues

3. The main issues in this appeal are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - The effect of the development on the openness of the Green Belt;
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the appeal site is a suitable location for development, with regard to access to facilities and services;
 - The effect of the development on protected trees on the site, and
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- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations and amounts to the very special circumstances necessary to justify the development.

Reasons

Whether the proposal is inappropriate development within the Green Belt

4. The appeal site is situated in the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) sets out that, subject to a number of exceptions, the construction of new buildings is inappropriate in the Green Belt. A new dwelling is not one of exceptions set out in the Framework and, consequently, the proposal is inappropriate development within the Green Belt.
5. The appellant suggests that an inappropriate development would not necessarily be harmful in the Green Belt. However, the Framework states at Paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. The Framework also requires that substantial weight should be given to any harm to the Green Belt.
6. Policy GBC1 of the East Hertfordshire Local Plan Second Review, 2007 (EHLP) deals with the Metropolitan Green Belt, and sets out the circumstances where development will be considered as not inappropriate. These exceptions do not include the construction of a new dwelling. The EHLP pre-dates the Framework and Policy GBC1 is based on earlier planning guidance¹. However, the main thrust of the policy is that within the Green Belt planning permission will not be given for inappropriate development unless very special circumstances can be demonstrated, which is consistent with the Framework and the policy can, therefore, still be given very significant weight. As the proposed development does not fall within any of the exceptions set out in the Policy, the development would also be contrary to Policy GBC1 of the EHLP.
7. I therefore attach substantial weight to the harm arising from the inappropriate nature of the development.

Effect on the openness of the Green Belt

8. The appeal site was formerly part of the garden area of Nutwood House although it now separated from this by a fence. The surrounding countryside consists of a pattern of small fields set amongst large blocks of woodland and the appeal site, whilst bounded by established trees on three sides, has an open field to the north. West End Road is a narrow rural lane with scattered groups of buildings along its length and at its western end, where the appeal site is located, it is tree lined and has very rural character and sylvan appearance.
9. A fundamental aim of Green Belt Policy, as set out in Paragraph 79 of the Framework, is to keep land permanently open. The construction of a dwelling would result in built development where there is presently none, and would inevitably lead to a loss of openness. Whilst the development would, to a degree, be screened by existing trees it would, nonetheless, introduce a

¹ Planning Policy Guidance Note 2: Green Belts

further, large, structure into the landscape resulting in an increase in built development.

10. My attention has been drawn to a large barn structure to the south of the appeal site that the appellant suggests results in a greater loss of openness than the appeal proposal would. I was able to see this building when I visited the site. It consists of a steel frame which currently does not have external cladding or roofing installed. From its form and location, this is an agricultural building which is not inappropriate development in the Green Belt as it falls within the exceptions set out in Paragraph 89 of the Framework.
11. The Court of Appeal found in the case of Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council and Anor (Rev1) [2016], EWCA Civ 404, that where development is found to be 'not inappropriate' applying paragraphs 89 or 90 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt. I therefore do not consider that this building is directly analogous to the appeal proposal.
12. I conclude that the development would lead to a significant loss of Green Belt openness and would impact on the Green Belt purpose of safeguarding the countryside from encroachment.

Character and appearance of the area

13. The area around the appeal site is distinctly rural in character and whilst there is scattered development along West End Road, this is in the form of scattered groups of houses or farm buildings. The appeal proposal would result in a large new house, unrelated to other houses, which would be inconsistent with the existing pattern of existing built development. Although there are a small group of low, timber clad, buildings next to the appeal site these appeared to be ancillary to Nutwood House, rather than a separate entity. The section of West End Road on which the appeal site is located is a quiet, narrow, country lane with less built development than the eastern part of the road, and which has a very rural character. The addition of a further house and associated vehicular access would have an urbanising effect that would be harmful to this rural character.
14. The Council state that the co-axial field pattern around the appeal site is of significant historic value and is the only example of this type of landscape in southern Hertfordshire. I saw on my site visit that this field pattern is very evident in the landscape. The introduction of a new dwelling and domestic garden into this historic field pattern would, in my view, be an incongruous and jarring feature in this long established landscape.
15. Whilst the new dwelling would be screened to an extent by the existing trees around the site, due to the size of the proposed house shown on the indicative drawings and the need to create an engineered access to the site across the existing verge, its presence would nevertheless be apparent.
16. I therefore find that the proposed development would cause harm to the character and appearance of the area. It would be contrary to the relevant requirements of Policies ENV1 and ENV2 of the EHLP which seek to ensure that new development is of a high standard of design which has regard to any loss

of open land on the character and appearance of the locality and which retain and enhance existing landscape features. I attach significant weight to this.

Whether the appeal site is a suitable location for development

17. The decision notice refers to Policy SD1 of the EHLP. However this policy only relates to developments of 15 dwellings or more or sites of 0.5 hectares or more. The appeal site is 0.17 hectares in area and, consequently, this policy is not relevant to the appeal proposal. Nonetheless, from the reason for refusal and the officer's report it is clear that the Council consider that the site is not a suitable location for development in respect of access to shops, facilities and services.
18. Whilst there is a public house/restaurant within walking distance of the appeal site, there are no other services or facilities nearby. The closest shops and facilities are in Broxbourne, approximately 3 kilometres away. There are no public transport facilities near the appeal site and whilst it would be possible to access Broxbourne by cycle, I saw that the roads leading to it are narrow and unlit and as such I do not consider that this would be an attractive option, particularly during the winter months. For these reasons, I consider that future occupiers of the new dwelling would be largely dependent on the private car in order to meet their day to day transport requirements, which is inconsistent with the requirements in the Framework with regard to promoting sustainable transport.
19. I have had regard to the appellant's point that the proposed dwelling would incorporate energy efficient measures, however, this would not offset the need to travel by car to meet the day to day requirements of the occupants.
20. The appellant also refers to advice in older planning guidance² in respect of additional housing supporting local services and the provision of housing in rural areas to meet the needs of local people. This guidance has since been superseded by the Framework, although paragraphs 54 and 55 of the Framework contain similar wording. No substantive evidence has been provided that would suggest that there are local shops or services which are at risk and neither party has submitted any evidence in respect of housing need in the area. Consequently I can only give limited weight to this point.
21. I therefore find that the site is not a suitable location for housing with regard to access to facilities and services. This weighs moderately against the proposal.

The effect of the development on protected trees on the site

22. The trees on the site frontage and to the east and west of the site are covered by a Tree Preservation Order. It would be necessary to remove three trees on the site frontage and two trees further into the site to create the vehicular access and driveway.
23. The appellant states that he is not aware of any Tree Preservation Order for trees on the site. I have been provided with a copy of a Tree Preservation Order³ which covers 79 groups of trees and 42 woodland areas. The trees on the appeal site are within Group 53 shown on the plan attached to the Order.

² Planning Policy Guidance Note 3: Housing

³ The Hertfordshire County Council (Broxbourne Woods No.3) Tree Preservation Order 1955

24. No arboricultural information was submitted in support of the proposal but I saw on my site visit that the trees on the site appeared to be in reasonable health. As set out above, West End Road at this point is lined with trees on both sides which make a significant contribution to its rural character. The proposal would result in the removal of three trees from the site frontage. One of these is a relatively small, multi-stemmed deciduous tree that is set slightly back from the site frontage and makes only a small contribution to the overall appearance of the area. However, the other two are a particularly tall evergreen tree with a columnar form, and a large multi-stemmed evergreen tree which are located directly behind the boundary fence and which, due to their size make a significant contribution to the character of the lane. Being evergreen, these provide a pleasing variety to wooded nature of the lane and a counterpoint to the deciduous trees.
25. I conclude that the loss of these trees would have a noticeable adverse impact on the character and appearance of the lane and of the wider historic landscape. This would be contrary to the relevant requirements of Policies ENV1, ENV2 and ENV 11 of the EHLP which seek to ensure that proposed development has regard to any loss of open land on the character and appearance of the locality, retains and enhances existing landscape features and maximum retention of existing hedgerows and trees. I attach significant weight to this.

Other considerations

26. The appellant suggests that there is a demand for housing in the area and that this is evidenced by planning approvals for large housing developments in the Green Belt at Hoddesdon and Buntingford. I do not have full details of these schemes and so cannot be certain of the circumstances that led to them being accepted, or whether they are analogous to the case before me. Neither party has submitted substantive evidence in respect of housing land supply or predicted future housing delivery. The provision of a single dwelling would contribute to increasing the supply of housing in the area, however, as it is only a single dwelling I can attach only limited weight to this.
27. The appellant also suggests that the EHLP ended in 2007 and that there is no current plan in place. The relevant policies in the EHLP were saved by Direction of the Secretary of State in March 2010 and as they are consistent with the advice in the Framework they can still be given significant weight.
28. The Framework requires that housing applications should be considered in the context of the presumption in favour of sustainable development. Paragraph 14 of the Framework sets out that there is a presumption in favour of sustainable development where the development plan is absent silent or out of date. However, the presumption in favour of sustainable development is engaged only when the development does not conflict with other policies in the Framework or where policies in the Framework indicate that development should be restricted. Footnote 9 in relation to Paragraph 14 specifically references policies in relation to land designated as Green Belt.
29. I have found that the development would conflict with the policies in the Framework and development plan which relate to Green Belt land. This is a material consideration which indicates that the presumption in favour of sustainable development is not engaged.

30. I have also been referred by the Council to a number of policies in the Pre-submission Draft of the East Hertfordshire District Plan. However, this plan is still at an early stage of preparation and as these policies have not yet been consulted on or been subject to examination and, therefore, may change. As a consequence, I can give only very limited weight to these emerging policies.

Conclusion

31. The Framework sets out that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness is clearly outweighed by other considerations. To the substantial weight that I have attributed to the inappropriate nature of the development, I add the significant harm to the loss of openness, and the substantial harm to the character and appearance of the area as a result of the building and the loss of trees. These are not clearly outweighed by the limited weight that I have given to the other considerations. They cannot, therefore, amount to the very special circumstances necessary to justify inappropriate development in the Green Belt.
32. For the above reasons and, having regard to all other matters raised, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR