
Appeal Decisions

Site visit made on 17 November 2016

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 22 March 2017

Appeal A Ref: APP/N1920/W/16/3154984

37 Bucks Avenue, Watford, Hertfordshire WD19 4AR

- 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 Clovercourt Fusion against the decision of Hertsmere Borough Council.
 - The application Ref 15/1895/FUL, dated 22 October 2015, was refused by notice dated 23 June 2016.
 - The development proposed is the demolition of 37 Bucks Avenue and equestrian facility, removal of hardstanding, maneges, buildings and structures and redevelopment of the site to include 34 dwellings (including 12 affordable dwellings) comprising 12 x 1 bed apartments, 4 x 2 bed apartments, 10 x 3 bed houses and 8 x 4 bed houses, parking, village green with pond and play area served by modifying existing access from Bucks Avenue/Sherwoods Road. Provision of public footpaths and cycleways connecting Bucks Avenue to Footpath No 17 and the ecological enhancement of land to south east of the dwellings to include biodiversity enhancement, landscaping, wildflower meadows, the formation of ponds and a communal orchard.
-

Appeal B Ref: APP/Y1945/W/16/3153118

37 Bucks Avenue, Watford, Hertfordshire WD19 4AR

- 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 Clovercourt Fusion against the decision of Watford Borough Council.
 - The application Ref 15/01542/FUL, dated 29 October 2015, was refused by notice dated 18 February 2016.
 - The development proposed is the demolition of 37 Bucks Avenue and equestrian facility, removal of hardstanding, maneges, buildings and structures and redevelopment of the site to include 34 dwellings (including 12 affordable dwellings) comprising 12 x 1 bed apartments, 4 x 2 bed apartments, 10 x 3 bed houses and 8 x 4 bed houses, parking, village green with pond and play area served by modifying existing access from Bucks Avenue/Sherwoods Road. Provision of public footpaths and cycleways connecting Bucks Avenue to Footpath No 17 and the ecological enhancement of land to south east of the dwellings to include biodiversity enhancement, landscaping, wildflower meadows, the formation of ponds and a communal orchard.
-

Decisions

1. Appeals A and B are dismissed.

Application for Costs

2. Appeal B: An application for costs was made by Clovercourt Fusion against Watford Borough. This application is the subject of a separate Decision.
-

Procedural Matters

3. The appeal site straddles the administrative boundary of two local planning authorities and therefore two separate planning applications have been submitted for the different parts of the Appellant's development. The dwellings and the land beyond, subject to the construction of the recreational access, ecological enhancements and landscaping, lie within a Hertsmere Borough Council area (Appeal A). The vehicular/pedestrian access adjacent to Bucks Avenue and Sherwoods Road, together with some landscaping and car parking, lie within a Watford Borough Council area (Appeal B). Despite the descriptions on both Appeals detailing the development as a whole, I have considered each Appeal on this basis.
4. Appeal A: A signed copy of an agreement under section 106 of the Town and Country Planning Act 1990, dated 6 December 2016, has been submitted. It indicates the provision of affordable housing, a bridleway, public open space and a requirement for an estate management plan to secure the ecological enhancements. The merits of the agreement will be commented upon in my reasoning.
5. Appeal A: Hertsmere Borough accepted amended plans during the determination of the planning application which showed clarification of the red-boundary edge of the site. Appeal B: Watford Borough Council refused their planning application before these plans were submitted but has nevertheless accepted them as part of the appeal. As the changes are minor and do not change the nature of the scheme, I shall likewise accept them as part of the appeal.
6. Appeal B: A 'raised gateway feature' access includes a ramped platform with a single lane carriageway and small sections of demarcated footway on either side. Since the appeal was lodged, the neighbouring vehicular access at 35 Bucks Avenue has been repositioned closer to this proposed access of the appeal site. In response the Appellant has submitted an amended access plan showing the 'raised gateway feature' sited further back from its original position. Despite the repositioning, its detailed design has not changed materially and remains largely in the same position as the existing access. For these reasons, both appeal proposals have been considered on the basis of the latest access plan.
7. Appeal B: By reason of the change to the access indicated above, further swept path analysis has been undertaken for different vehicles types. The illustrative plans showing this do not significantly differ from those considered at the application stage of the proposal and thus I have considered the revised analysis. Additionally an access swept path analysis for emergency vehicles has been submitted. As this is a response to the objections already commented upon by the Council and third parties, the analysis is relevant and the issue is already within the public domain. Furthermore, it does not alter the nature of the proposal. For these reasons, there would not be any prejudice to any interested party.
8. Appeal A: The Hertsmere Borough Council – Site Allocations and Development Management Policies Plan was adopted 22 November 2016. The appeal documentation referred to emerging policies SADM12, SADM27 and SADM31 of this plan. In the new plan, they have been renumbered policies SADM11, SADM26 and SADM30 respectively. The numbering of policy SADM3 has

remained unchanged. Additionally policy H8 of the Hertsmere Local Plan 2003 has now been superseded. The Appellant has been consulted on these changes and the appeal has been considered on this basis.

Main Issues

9. The site is within the Green Belt in both Council areas and so the main issues are:

- Whether the proposal would be inappropriate development for the purposes of the National Planning Policy Framework and the development plan (Appeals A and B);
- The safety and convenience of users of the proposed access and transport network (Appeal B only);
- If the proposal is inappropriate development, 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 it (Appeal A).

Reasons

Whether inappropriate development

Appeal A

10. Paragraph 89 of the National Planning Policy Framework (the Framework) establishes that new buildings are inappropriate unless they involve the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development. Hertsmere Local Plan Development Plan Document Core Strategy (HCS) 2013 policy CS13 state the construction of new buildings are inappropriate development unless they are defined as exceptions. Hertsmere Borough Council Site Allocations and Development Management Policies Plan (HSADM) 2016 policy SADM26 indicates that scale, height and bulk of the development should be sympathetic to and compatible with its landscape setting and not be harmful to the openness of the Green Belt.
11. The existing buildings on the site would mainly be of single storey nature, the exceptions being the two storey dwelling at 37 Bucks Avenue and a tall indoor equestrian riding school building. The blocks of dwellings and flats would be two storeys high with some having accommodation within the roof. Building footprint on the site would be significantly reduced. In this regard, the existing buildings are largely single storey giving them an extensive ground floor area whereas the new residential buildings would be a minimum of two storeys with floorspace spread across different floors. By reason of maneges and extensive hardstandings, the new development would also result in a significant reduction in hard surfaced areas on the site.
12. The volume of the new housing would only be marginally greater than the existing buildings on the site but the new housing would be two storey with some roof accommodation in place of the largely single storey buildings. Furthermore, the dwellings and curtilages would also extend beyond the

existing buildings on the site together with the play area with equipment beyond the proposed housing. There would be an open green centrally located within the housing but there would still be a considerably greater intrusion of development on the site by reason of this outward extension of development and increase in storey height. Thus, there would be a greater impact on openness. Furthermore, this would result in unrestricted sprawl of a large built-up area not being checked and encroachment into the countryside in conflict with the purposes of the Green Belt identified in the Framework. In conclusion, no exception would apply and the proposal under Appeal A would be inappropriate development contrary to HCS policy CS13 and HSADM policy SADM 26 and the Framework which is by definition, harmful to the Green Belt.

Appeal B

13. Paragraph 90 of the Framework establishes that other forms of development (additional to those specified in paragraph 89) are not inappropriate provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. One such exception is engineering works which would include the hard surfaced areas for the new vehicular/pedestrian access and car parking. Such works largely replace existing areas of hard surfacing and thus openness would be preserved. For similar reasons, the development would not conflict with the purposes of including land within the Green Belt. In conclusion, the proposal under Appeal B would not be inappropriate development.

Highways

14. The existing access lies directly between two properties 1 Sherwoods Road and 35 Bucks Avenue on a right angle bend where these two roads meet. The access into the site is shared with no clear demarcation between pedestrians and vehicles. There are two neighbouring properties with private accesses close to the revised access for the development.
15. The widths of the carriageway and footways within the 'raised gateway feature' would be less than that recommended in the Manual for Streets (MfS) and Roads in Hertfordshire (RiH). However, the MfS and RiH promote solutions to highway design rather than applying prescriptive requirements. In this regard, the 'gateway access feature' would slow down vehicles entering and leaving the site by reason of a raised platform with ramps, the narrow carriageway width and surface material construction contrasting with the main highway. Additionally the existing 'Give Way' highway position of the access would be repositioned out into the existing highway by reason of kerb build-outs. This would improve the visibility for drivers coming in and out of the site and adjacent properties because the distance between the site boundary and the highway would increase. There would also be demarcation between the footways and carriageway with the 'raised gateway feature'.
16. In terms of vehicle movements, the Appellant's Transport Planning Statement (TPS) indicates that Bucks Avenue/Sherwoods Road is lightly trafficked based on traffic counts taken. I do not disagree with this given that both roads mainly serve residential properties.
17. Nevertheless, it has been indicated that the future vehicle movements as detailed in a Trip Rate Information Computer System (TRICS) analysis within the TPS should be higher. Finding a TRICS analysis wholly representative of

any particular proposal is difficult. Inevitably the empirical data informing the analysis will not relate to an exactly similar proposal and site. However, the TRICS analysis makes no downward adjustment for the proposed flats within the development or for the traffic movements generated by the equestrian use of the site. Therefore, even taking account of the criticism of the TRICS analysis by the Council and third parties, the projected vehicle movements would not be likely to be greater than indicated. In the absence of any contrary analysis, it represents the best available evidence before me. Given that Sherwoods Road/Bucks Avenue is lightly trafficked, the impact of the additional vehicle movements even as projected would not be significant for these reasons.

18. The swept path analysis shows larger vehicles, such as refuse vehicles and fire engine appliances, crossing over the centre line of Bucks Avenue/Sherwoods Road in accessing/exiting the site. However, the highway is lightly trafficked and the highway authority has also confirmed that the forward visibility of vehicles on the highway exceeds required standards. Furthermore, the right hand bend configuration of Bucks Avenue and Sherwoods Road would ensure the slowing down of vehicles on the highway which is in any case a 30 mph zone. Turning to the 'raised gateway feature', even if wheels or bodies of the larger vehicles passed over kerblines onto footways, the narrowness and raised nature of the carriageway and material construction would significantly reduce traffic speeds. For this reason, pedestrians would be able to safely avoid the vehicles if such an eventuality occurred. Furthermore, these larger vehicles accessing the site would be infrequent compared to cars given the residential nature of the development.
19. Turning to third party representations, Sherwoods Road and Bucks Avenue have junctions with a principle distributor road, the A4008 Pinner Road, which carries heavy volumes of traffic. For the reasons previously indicated, the projected traffic movements from this development have been found to be acceptable. Based on these traffic movements, the Appellant's TPS has further indicated that for the morning peak the worst scenario is one additional traffic movement every 6.66 minutes for access out of Bucks Avenue. For the evening peak, the worst scenario is one additional traffic movement every 12 minutes for access into Bucks Avenue from north. Such an analysis, involving survey work, is robust being based on accepted practice and professional judgement. Additionally, the highway authority has confirmed these junctions meet relevant highway standards. On this basis, I find the additional vehicle movements projected at these junctions to be realistic and not significant and for all these reasons, there would not be severe transport impacts on the wider highway network.
20. The proposed car parking for residents and visitors to the properties would comply with the Hertsmere Council Parking Standards Supplementary Planning Document 2014. Concerns have been expressed about the parking on the Bucks Avenue in order to gain access to the public land beyond the housing. Nevertheless, there will be other streets to park and routes to access the land. Consequently, any additional demand for car parking would not lead to significant overspill of parking on streets. The new access could result in changes to the lighting of the highway but these details could be resolved between the Appellant and the highway authority in any agreement if the scheme was to proceed.

21. For all these reasons, there would not be a significant risk to the safety of highway users, including drivers accessing neighbouring properties and pedestrians using the footways/shared surfaces into and out of the site. There has been only one recorded vehicle accident in the area in the last three years up to end of August 2015 which the highway authority considered was not due to highway deficiencies. Therefore, the transport impacts of the development would not be severe. Accordingly, the proposal would comply with policy T21 of the Watford District Plan 2000, which amongst other matters, requires adequate provision to be made for access/egress and servicing arrangements to meet necessary safety and capacity requirements. The proposal would also comply with the guidance of the MfS and RiH for the reasons indicated.

Other considerations

22. Paragraph 81 of the Framework states that local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity compared to the existing or to improve damaged and derelict land.
23. The dwellings would be attractively designed with extensive use of stained timber cladding to give the general appearance of brick and timber barns. They would be sited around a green, including a pond, and there would be extensive planting in and around the housing development. The development would result in the removal of an unsightly and extensive range of buildings and hardstandings. In the area of some 11ha beyond the housing, there would be managed grassland and new planting would result in new hedgerows, woodland and parkland. This area of mainly paddocks and fields has a degraded landscape quality by reason of the former equestrian uses.
24. However, the site has a countryside character due to its edge of settlement location and the existence of equestrian buildings and uses on it. The introduction of a residential development would impact upon this countryside character by reason of its urban nature. In this regard, the dwellings and curtilages would also extend beyond the existing buildings on the site together with the play area with equipment beyond the proposed housing. Additionally areas of paddocks and fields would recover from their current state through vegetation naturally regenerating. On this basis, there would be harm to the character and appearance of the area, including the wider landscape. Accordingly, the proposal would conflict with HCP policy CS22 and HSADM policies SADM3, SADM11 and SADM30, which collectively and amongst other matters, requires development to be of a scale and design respectful of its surroundings, design to be high quality, advantage to be taken of opportunities to improve the character and quality of an area, and that proposals should preserve or improve the prevailing landscape quality, character and condition.
25. The additional land beyond the proposed housing, including the associated public open space, consists mainly of grazing land with negligible ecological value. A biodiversity enhancement plan proposes species-rich flower meadows, parkland tree planting, a community orchard, new woodland planting and hedgerows, the restoration of ponds, and appropriate management of existing grasslands. In addition, there are specific measures for bats, reptiles and amphibians. These enhancements would be secured by conditions and the

S106 agreement requiring the submission and approval of an Estate Management Plan that includes maintenance provisions for the lifetime of the development. The biodiversity enhancements are supported by Hertfordshire Ecology and Herts and Middlesex Wildlife Trust. However, these enhancements would not arise immediately because the planting, restoration work and appropriate management would take time to be implemented and established. Accordingly, I attach moderate weight to this benefit.

26. The proposal would open up the wider parcel of land for wider public access by way of a new bridleway linking Bucks Avenue with an existing footpath and bridleway and provision of community facilities, such as an orchard and recreational space. Whilst some of additional benefits would be dependent upon the establishment of planting, the Public Right of Way (PRW) would provide an alternative route for the residents to access different parts of the built-up area and there should be no reason why this cannot be secured soon after the completion of construction on the site. The agreement would secure the creation of the PRW for people under relevant legislation and contributions for its maintenance. Accordingly, I attach significant weight to the increased opportunities for public access and recreation.
27. The provision of 12 affordable housing units would comply with the affordable housing requirements within HCS policy CS4. The tenure split of accommodation would comply with the guidance of the Hertsmere Affordable Housing Supplementary Planning Document (HSPD) 2015. The legal agreement would secure the implementation of the affordable housing which would contribute to the need identified in the HCS and HSPD. As proportion of overall need, the weight to the contribution would be moderate. Whilst I recognise Framework policy is to boost housing supply, little information has been put to me on the existing housing supply situation and accordingly, I attach only small weight to this consideration.
28. CS policy CS7 expects sites of over 25 units to reflect identified variations within the Borough's housing need, subject to the prevailing character of the area. The housing mix is more heavily weighted towards 4 bedroom units in comparison with the required overall mix under the most-up-to-date Strategic Housing Market Assessment (SHMA) 2010. Although this has been justified given the edge of settlement location, it would not represent a benefit on this basis.
29. The legal agreement would secure the biodiversity enhancement, the public right of way, and the estate management plan. Such requirements would be necessary to secure the benefits which are being put forward to make the development acceptable in planning terms. Similarly and for the reasons previously indicated, they would be directly related to the development and fairly and reasonably related in scale and kind to the development. Accordingly, these obligation requirements would satisfy the tests of paragraph 204 of the Framework.
30. Turning to the financial provisions of the agreement, the HCS and HSPD policies detail the need and provision requirements for affordable housing. For the public right of way, a payment is necessary to ensure its retention and given the extent of the public right of way, the amount is not unreasonable. For all these reasons, the chargeable parts of the obligation are necessary to secure the benefits put forward to make the development acceptable in

planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Therefore, the tests of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) are met.

Conclusion

Appeal A

31. The proposal would be inappropriate development in the Green Belt which is by definition harmful. The proposal would result in loss of openness and conflict with the purposes of the Green Belt. Additionally, there would be other harm arising from the adverse impact on the character and appearance of the area.
32. In favour of the proposal, there would be biodiversity benefits within the land beyond the proposed housing. Some affordable housing would be provided. These benefits would carry a moderate level of weight in favour of the proposal. Land would be opened up to public use with a public right of way though the site providing accessibility and recreation benefits which would carry a significant level of weight in favour of the proposal. There would be small weight from the development's boost to housing provision.
33. However, the Framework establishes that substantial weight should be given to any harm to the Green Belt and other considerations have to clearly outweigh that harm and other harms. For the reasons indicated, there are considerations in favour of the proposal, the weight of which has been detailed. However, the proposal would result in harm rather than a benefit in terms of the character and appearance of the area. On balance, the identified benefits of the proposal individually or in combination do not clearly outweigh the totality of harm. Consequently, very special circumstances do not exist.
34. In summary, proposal conflicts with HCS policy CS13 and HSADM policy SADM 26 in respect of the Green Belt. Additionally, the proposal would conflict with HCP policy CS22 and HSADM policies SADM3, SADM11 and SADM30. Under the Framework, the proposal would conflict with policy under Section 9 on the Green Belt.

Appeal B

35. The access and associated works would not be inappropriate development. The highway and transport impacts of the development would be acceptable in compliance with WDP policy T21 and the guidance of MfS and RiH. However, the acceptability of this proposal is directly linked to that under Appeal A because the access justification derives from the nature of the development on the larger site. For this reason, Appeal B fails.

Conclusion

36. For the above reasons and having regard to all other matters raised, including those representations in support of the development, I conclude that the appeals should be dismissed.

Jonathon Parsons

INSPECTOR