
Appeal Decision

Site visit made on 27 March 2017

by Richard Schofield BA(Hons) MA MRTPI

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

Decision date: 04 April 2017

Appeal Ref: APP/W1905/W/16/3164574

Halstead Hill Nursery, Halstead Hill, Goffs Oak EN7 5NA

- 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 Tony Sawyer against the decision of Broxbourne Borough Council.
 - The application Ref 07/16/0612F, dated 25 May 2016, was refused by notice dated 6 September 2016.
 - The development proposed is outline application for 14 dwellings as self-build plots.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Reference is made in the decision notice, and by the parties, to Broxbourne's emerging local plan. This is still at an early stage of development, however, having yet to pass examination. Indeed, it is not clear from the evidence before me whether it has even been submitted for such. Thus, in line with the guidance at paragraph 216 of the National Planning Policy Framework (the Framework), I afford it very little weight. I have, therefore, considered the appeal against the adopted development plan (Borough of Broxbourne Local Plan Second Review 2001-2011 (the Local Plan)) and national planning policy.
 3. The appellant suggests that the Local Plan is out-of-date as it was not designed to meet a full, objectively assessed need for housing (FOAN) and has been superseded by the Framework. The test of out-of-datedness is set out in the Framework at paragraph 215. This is clear that development plan policy weight is relative to the degree of consistency with the Framework, not age alone. The Local Plan may not have been designed to meet a FOAN and may have preceded the Framework, but there is no substantive evidence before me to suggest that either of these factors is, as a matter of principle, fatal to the Local Plan's continuing relevance.
 4. Certainly, with regard to the design policies cited by the Council in its decision notice, I see nothing within them that is in any way inconsistent with the Framework's emphasis on good design and, as such, I do not consider that they can reasonably be regarded as being out-of-date. I address the issue of Green Belt policy below.
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Main Issues

5. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on the character and appearance of the area and on highway safety; and
- Whether any harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations such as to amount to the very special circumstances required to justify the proposal.

Reasons

Housing Land Supply

6. The appellant states that the Council is unable to demonstrate a five-year supply of deliverable housing sites and provides evidence, in the form of the Council's own documents, in support of this. The planning officer's first report confirms this. As such, I have no reason to depart from this position.
7. Where, as here, a local planning authority is unable to demonstrate a five-year supply of deliverable housing sites, paragraph 49 of the Framework, which is a significant material consideration, indicates that relevant policies for the supply of housing should not be considered up-to-date.
8. This does not, however, lead to an automatic assumption that planning permission should be granted. Rather, paragraph 49 aims to ensure that in situations where, as here, the existing development plan policies have failed to secure a sufficient supply of deliverable housing sites, the '*presumption in favour of sustainable development*' is duly applied.
9. The mechanism for applying that presumption is set out in paragraph 14 of the Framework. This explains that where relevant policies are out-of-date then (unless material considerations indicate otherwise) 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 that development should be restricted.
10. Green Belt policy is relevant policy for the supply of housing. Nonetheless, footnote 9 of the Framework is clear that 'specific policies in the Framework' include Green Belt policy. Thus, the development proposal stands to be assessed against the relevant Framework Green Belt policies. Only if it is found to be compliant, should it be subject to assessment against the presumption.

Whether inappropriate development

11. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate development in the Green Belt. A number of exceptions to this

are set out in paragraph 89. The appeal proposal does not meet any of the exception criteria and, as such, would be inappropriate development in the Green Belt.

12. The appellant argues that the development would be not inappropriate by virtue of the fact that the site is previously developed land, upon which the Framework permits redevelopment in the Green Belt. Notwithstanding the fact that much of the site appeared, in fact, to be green field, the Framework is clear that previously developed land does not include land that is or has been occupied by agricultural buildings. Section 336 of the Town and Country Planning Act 1990 includes horticulture, fruit growing and seed growing as agriculture. Thus, the appeal site, as a former nursery, does not fall under the Framework's definition of previously developed land and, *ergo*, the appeal scheme cannot be regarded as not inappropriate development in the Green Belt.
13. Policy GBC2 of the Local Plan is also relevant here. It is broadly reflective of the Framework's exception criteria and echoes national policy inasmuch as it seeks to preserve the openness of the Green Belt by restricting development accordingly. As such, it still attracts moderate weight. The appeal proposal would not meet its requirements and would, therefore, be in conflict with it.

Effect upon openness

14. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open¹.
15. It is clear that there were once glass houses on a large part of the site, although much of it was undeveloped. The glass houses are no longer present, however, and the site is devoid of development other than for a small brick building and some very low remnant walls, perpendicular to the southern edge. The site has the appearance of an, albeit scrubby and untidy, open field.
16. It is suggested that the volume of the 'existing buildings' on the site would be greater than that of the proposed dwellings. Given that there are no 'existing buildings' on the site beyond a small brick outbuilding, and that there are no detailed plans of the proposed dwellings before me, it is difficult to see how this argument can be sustained.
17. 14 plots are proposed for the site, covering the entirety of it. This is an outline application and it may be that 14 dwellings could be squeezed onto a smaller area of the site. Even so, in the sense that openness in a Green Belt context can be taken to mean absence of development, the appeal scheme would result in a substantial loss of openness, which the Framework is clear is an essential characteristic of Green Belts², arising from the development of 14 dwellings across the site.

Character and Appearance

18. The appeal site is accessed from Halstead Hill, which, at this point, is a quiet, relatively narrow, country lane. It is bordered by mature trees and hedges, with wild grass verges along it in places. The only notable footway is a small, paved section along the frontage of 'Grasmere'. There are houses dispersed

¹ The Framework para 79

² Ibid

along the lane, typically fronting onto it in a ribbon of development. A small light industrial unit is set further back from the road beside some disused glass houses. Overall, the appearance of the lane is one of informal semi-rurality.

19. In this context, appropriately designed and located residential development on some of the appeal site would not necessarily appear at odds with its surroundings. Nonetheless, the extent and scale of development proposed would be. The number of dwellings and their distribution across the full width of the site, configured around an internal estate road, would be at odds with the prevailing pattern of shallow, loose knit ribbon development along the lane. The scheme would have the appearance of a suburban cul-de-sac parachuted into a semi-rural setting.
20. In addition, it would appear that the only feasible means of ensuring safe and secure pedestrian access from the site would be a new footway along the lane. This would result in the loss of a very substantial amount of the characteristic verge, and possibly the loss or significant cutting back of trees and hedgerow, to be replaced with a pavement. It may be that the Council's Tree Officer has commented that any trees/hedges are of low quality but that is not the point. Individual specimens may not be of any great significance but cumulatively they add to the overall character and appearance of the lane. The impact of their loss, and the introduction of a formal highway feature, would be to the detriment of the lane's distinctive green character.
21. This is an outline application. Nonetheless, I share the Council's concerns about the very light touch information provided in relation to the design specifics of the site. It is not, in my judgement, an unreasonable expectation to have sufficient information in relation to the form and design of proposed dwellings to enable, for example, a design code to be conditioned at outline stage to guide self-build development. This would be of benefit to prospective plot purchasers, ensuring a degree of consistency across what is a sensitive Green Belt site.
22. I note that there is an estate of very substantial houses, on a gated site, under construction to the south of the appeal site. This has a marked impact upon the character of the lower part of Halstead Hill. Even so, this is, in my judgment, of itself incongruous. I do not consider that it should be regarded as a precedent to be replicated along the lane as to do so would be to undermine the lane's informality and semi-rural character.
23. I conclude, therefore, that the appeal proposal would have an adverse impact upon the character and appearance of the area. It would fail to accord with policies H8, H13, H14 and H17 of the Local Plan. These seek, among other things, to ensure that new development is of a high quality of design; maintains and, where possible, enhances, the existing character and landscape of an area; and reflects and relates to local characteristics and context.

Highway Safety

24. It is apparent from the information before me, given the future access restrictions to the estate that is currently under development, that the only feasible means of achieving pedestrian access along Halstead Hill would be the provision of a new footway. My concerns in relation to the adverse impacts upon character and appearance are noted above.

25. Notwithstanding this, in principle it may be possible to insert a footway in order to address access and safety issues. The highway authority has concerns, however, with regard to the practical implications of this, notably with regard to the topography and carriageway narrowing. It is of the view that further work is necessary to ensure that there would be no adverse safety implications. Having walked along the lane, in both directions, I do not consider their concerns to be unfounded.
26. This being so, in my judgment a precautionary approach is appropriate. I find that, in the absence of certainty that the proposed footway would be feasible and safe that the appeal proposal would conflict with Local Plan policy T3. This seeks, among other things, to ensure that new development does not compromise the safety of road users and pedestrians.

Other Considerations

27. It is not disputed that there is a need for additional housing in the Borough and a demand for self-build plots. Neither this nor recent legislation with regard to self-build is, however, *carte blanche* for development in otherwise inappropriate locations. There is no substantive evidence before me to suggest that there are not more suitable, policy compliant sites for self-build units. I am also mindful of advice in the Planning Practice Guidance³, which states that:

Unmet housing need ... is unlikely to outweigh the harm to the Green Belt and other harm to constitute the "very special circumstances" justifying inappropriate development on a site within the Green Belt.

28. The inference from the appellant's statement is that residential development on the site is all that it is appropriate. There is nothing before me, however, to indicate that the site is not viable for other uses, including its most recent. Nor is development the only means available to address an unkempt site.
29. The appellant seeks to draw support for the appeal scheme from the *Goffs Oak Area Development Options* report produced by the Council in April 2016. This appears to be just that however; an options report. It has no policy basis and is a document to inform plan making. As such, it attracts little weight in the decision-taking process.
30. It is suggested that the Council has acted inconsistently in permitting development on the site to the south of the appeal site, but refusing the appeal scheme. It is evident, however, that the planning history of that site, with particular regard to its qualification as brownfield land under the Framework, is different to that of the appeal site. As such, a direct comparison is not appropriate.
31. My attention has been drawn to the grant of permission for a self-build site at Crouch Lane, Cheshunt, which is served by a single track road. It is suggested that the appeal site is superior to this. This may be so, but I have no details of that site before me. Even if the appeal site was found to be superior, in whatever terms, that is neither here nor there. It would still not render the appeal scheme acceptable in planning policy terms.

³ Paragraph: 034 Reference ID: 3-034-20141006

Conclusion

32. The Framework is clear, at paragraph 87, that inappropriate development is, by definition, harmful and should not be approved except in very special circumstances.
33. The appeal proposal would be inappropriate development in the Green Belt and, thus, harmful to it. The Framework is clear that such harm should be afforded substantial weight. I have concluded that the proposal would harm the openness of the Green Belt, cause harm to the character and appearance of the area and have the potential for adverse impacts upon highway safety. These are factors to which I afford significant weight.
34. I have also considered the matters cited in support of the proposal but I conclude that taken together they do not clearly outweigh the harm that the scheme would cause. Consequently, I do not consider that the very special circumstances exist that are necessary to justify inappropriate development in the Green Belt.
35. Thus, for the above reasons, and taking all other matters into consideration, I conclude that the appeal scheme would fail to accord with the development plan when read as a whole and would not be sustainable development. As such, the appeal should be dismissed.

Richard Schofield

INSPECTOR