
Appeal Decision

Site visit made on 23 May 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 15 June 2017

Appeal Ref: APP/C1950/W/17/3170331

Woodhurst, Cattlegate Road, Northaw, Potters Bar EN2 8AU

- 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 R Young against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2016/2010/FULL, dated 29 September 2016, was refused by notice dated 11 January 2017.
 - The development proposed is consolidation of permitted development of ancillary garden buildings at 'Woodhurst' to provide 7 dwellings including independent use of existing access onto Coopers Lane Road and landscape screening within the curtilage of 'Woodhurst'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Both the Council's decision notice and the subsequent appeal form refer to the date of the planning application as 9 November 2016. However, I have taken the date of the application, referred to in the banner heading above, from the declaration section of the planning application form.
3. The description of development in the heading above has also been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed yet, nevertheless, a different wording has been entered, which appears to have been taken from the Council's decision notice. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the one given in the original application.
4. The Council advises that a new Local Plan is being prepared but that it is still in its early stages and that the emerging plan cannot be afforded any weight at this time. I see no reason to disagree with that assessment.

Main Issues

5. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework)¹ and any relevant development plan policies;

¹ Published 2012

- The effect on the openness and purposes of the Green Belt;
- The effect on the character and appearance of the area;
- Whether the proposed development would be in a suitable location;
- Whether sufficient information has been provided to enable the effects on biodiversity and landscape to be assessed;
- Whether sufficient information has been provided regarding visibility splays at the access onto Coopers Lane Road and turning space for large vehicles within the site to ensure highway safety; and,
- If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development, effects on openness and Green Belt purposes

6. The appeal site comprises a two storey detached house with large gardens to the rear. It is set back from the corner of Coopers Lane Road and Cattlegate Road with another residential dwelling opposite but open fields beyond its south and west boundaries. It is in a rural setting, outside the development boundary for Potters Bar and some distance from the villages of Northaw and Cuffley. It lies within the Green Belt. It is proposed to retain the existing house and to construct 7 new dwellings in the garden area to the rear, with access to them from Coopers Lane Road
7. Whilst the appellant's statement of case appears to indicate an acceptance that the proposal is inappropriate development in the Green Belt, it also contests whether there would be an impact on openness. Given the proposal and local and national policy, it is still necessary, in my view, to consider both inappropriateness and openness.
8. Policies GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005 (WHDP) form part of a strategy directing development away from the Green Belt. However, they predate the Framework by some years and do not include the exceptions offered by it which enable some development within the Green Belt. In that limited respect the WHDP policies are more restrictive than the Framework, which represents Government policy and is a significant material consideration in all planning decisions.
9. Paragraph 89 of the Framework advises that the construction of new buildings should be regarded as inappropriate within the Green Belt, unless it meets one or more of a list of exceptions. One of those exceptions, the sixth bullet point of paragraph 89, relates to limited infilling or the partial or complete redevelopment of previously developed sites.
10. Although the Framework does not define it, 'infilling' is normally understood to mean the filling of a small gap between existing built forms. The existing dwelling is being retained and there is a dwelling to the north, largely surrounded by woodland. However, as there is a field with a large pond to the immediate south of the site and open fields to the west, the proposal would not be limited infilling. Nevertheless, as there is an existing dwelling on the site, it

is previously development land, defined in the Glossary to the Framework as: *'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'.*

11. Whilst the proposal would, therefore, be the partial or complete redevelopment of a previously developed site, there is a second part to the relevant exception. It requires that the proposal should not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
12. A fundamental aim of Green Belt policy, as set out in paragraph 79 of the Framework, is to keep land permanently open. Additional bulk and physical presence may affect openness which can also have a visual element. Whilst the site does benefit from screening from the roads, placing seven additional detached two storey dwellings with pitched roofs and associated accesses in an area of the site currently devoid of built form would inevitably have a greater adverse effect on openness than the existing house. Therefore, the proposal would not meet the relevant exception in paragraph 89 of the Framework or, indeed, any of the other exceptions. . I will address the matter of the existing Lawful Development Certificates (LDCs) later in my decision.
13. Given its rural location and surrounds, the proposal would also compromise one of the purposes of the Green Belt, detailed in paragraph 80 of the Framework, which is to assist in safeguarding the countryside from encroachment. The Council suggest that as the proposal is for development outside of urban areas, towns and settlements, it would fail to assist in urban regeneration through encouraging the recycling of derelict and other urban land, thereby offending another of the purposes of the Green Belt. However, I consider any transgression in that particular respect indirect and give it limited weight.
14. Overall, the above factors lead me to conclude that the proposal would be inappropriate development in the Green Belt and that it would have a significant adverse effect on openness. It would also be contrary to the Green Belt purpose of safeguarding the countryside from encroachment.

Character and appearance

15. Although hedges and trees provide some screening, shrubs and trees within the site and along the western and southern boundaries can be seen from the adjoining roads. In any event, the effectiveness of such screening varies depending on the time of year and there is no guarantee that it would be retained at its current height and density. Therefore, it is likely that the proposed additional seven houses with pitched roofs and ridged heights of approximately 7.7 metres, a figure that has not been disputed, would be visible from public vantage points, including from the proposed access off Coopers Lane Road.
16. Although there is another dwelling to the north, the area is characterised by predominantly open agricultural land, with some farm buildings and occasional scattered detached dwellings on mostly generous plots. The site also falls within the Northaw Common Parkland Landscape Character Area, which policy RA10 of the WHDP seeks to safeguard. The amount, density, scale and massing of the proposed housing with its associated driveways, hardstandings,

subdivision of plots, fencing, garages and car parking on an elevated site would be incongruous and out of character with the pattern of limited development in the area. It would result in the urbanisation of a rural setting.

17. Therefore, I conclude that the proposal would have an adverse effect on the character and appearance of the area. It follows that it would conflict with policies D1, D2 and RA10 of the WHDP, which amongst other things, require development to respond to local character and surroundings and conserve, maintain and enhance landscape character.

Suitable location

18. WHDP policies SD1, H2, GBSP1 and GBSP2 form part of the Council's spatial strategy and seek to focus new residential development on existing towns and settlements which have good public transport links and are outside the Green Belt. Although the WHDP dates from 2005, the relevant policies are 'saved' and still constitute part of the development plan for the area. Moreover, those policies are largely consistent with the Framework which, at paragraph 55 for example, advises that local planning authorities should avoid isolated homes in the countryside and seeks to achieve sustainable development.
19. The appeal site is outside any development boundary and about a mile or so from the villages of Cuffley and Northaw, which offer the nearest shops and services. However, the roads in the area are not easily or safely usable by pedestrians as there are no footways, only intermittent verges, and the speed limits are 60mph. Despite the proximity to Crews Hill railway station, the M25 and its location north of Enfield and east of Potters Bar, the site is remote from immediate everyday services accessible by sustainable modes of transport. Therefore, I share the Council's view that it is likely that the majority of journeys made by future occupants would be by private motor car.
20. Consequently, I conclude that the proposed development would be in an unsuitable location. Therefore, it would also be contrary to policies SD1, H2 GBSP1 and GBSP2 of the WHDP, which seek to direct development to appropriate locations and ultimately aim to protect the countryside and the environment.

Biodiversity and landscape

21. A lack of information regarding landscaping and effects on biodiversity formed a reason for refusal in the Council's decision notice. The appellant advises that existing boundary treatments would be retained and enhanced. In any event, as indicated in the Council's statement of case, a landscaping scheme, tree protection plan, habitat survey, habitat enhancements and mitigation measures could all be secured by appropriate conditions. Therefore, those factors do not weigh heavily against the scheme.

Highway safety

22. The appellant has submitted an additional plan with the appeal documentation including visibility splays. However, the Council also advise that they require a tracked diagram to demonstrate turning areas for emergency vehicles. Such matters could also be satisfactorily dealt with by condition.

Other considerations

23. The Council advises that it can demonstrate a five year housing land supply (HLS), as outlined in its Annual Monitoring Report (AMR). However, the appellant, referring to the AMR for 2013, suggests that the initial Housing Market Need Assessment in relation to the emerging Local Plan identifies a higher requirement and that there is not a robust 5 year HLS. Neither party has provided sufficient supporting documentation or conclusive evidence to enable the current position to be established.
24. The appellant also refers to an appeal decision², relating to Land adjacent to Sunny Cottage, as illustrative of how a lack of a 5 year HLS is dealt with in relation to a small development. However, that appeal site was not in the Green Belt and it is in a different Council area. Therefore, its relevance to the case before me is limited. In any event, I have determined the appeal on its own merits. I will return to the issue in my conclusions below.
25. LDCs have been issued by the Council for five buildings on the site, although I do not have comprehensive details. The appellant suggests that the volume of permitted development that could take place should be weighed in the balance, when assessing harm to the Green Belt and to the character and appearance of the area and its landscape. I also note that there is an extant permission³ for the existing dwelling to be extended.
26. Whilst there is a theoretical possibility that the various LDC developments might take place, no persuasive evidence has been presented to indicate an intention to implement them. The Council submit that the proposed development of 7 two storey brick houses, ranging from 3 to 5 bedrooms, with tiled roofs about 7.7 metres high would be materially greater than the development contemplated in the LDCs, which would be mainly single storey and would be limited to 4 metre high timber roofs. In the absence of clear evidence to the contrary, I find the Council's position persuasive.
27. Therefore overall, I consider that the appeal scheme would be significantly more harmful to the Green Belt and the character and appearance of the area than the 'fallback' position, even if the existing permitted development rights and extant permission were implemented. Consequently, I give the 'fallback' position limited weight.
28. In social terms, the proposal would make some contribution to the supply of housing and the provision of family homes, whilst there would also be some economic benefits during construction and from the contribution of future occupiers. I give those benefits some positive weight although the contribution made by 7 additional dwellings would be relatively modest.

Conclusions

29. The Framework indicates, at paragraph 87, that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
30. I have already found that the proposal would be inappropriate development. I have also identified significant harm to the openness of the Green Belt.

² APP/P0204/W/16/3159535

³ S6/2/W/014/0610/FP

Furthermore, that the proposal would harm the character and appearance of the area and be in an unsuitable location conflicting with the Council's development strategy, which is in part designed to protect the countryside.

31. Paragraph 88 of the Framework advises that substantial weight should be given to any harm to the Green Belt and that '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.
32. As I have given limited weight to the other considerations discussed above, I find that they do not clearly outweigh the harm to the Green Belt and the other harms that I have identified. Therefore, the very special circumstances necessary to justify the proposal do not exist.
33. In reaching these conclusions, as the issue of five year HLS has been raised, I have taken into account the Government's Planning Practice Guidance which advises 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.'*⁴
34. If there were a shortfall in the five year HLS, it would trigger paragraph 14 of the Framework. However, paragraph 14 indicates that, if policies are considered out-of-date, permission should be granted unless there are specific policies in the Framework (such as land designated as Green Belt), which indicate that development should be restricted. Given that there are no very special circumstances; Green Belt policy provides that to be the case here. Furthermore, the proposal is contrary to the WHDP and material considerations do not indicate that the proposal should be determined other than in accordance with the development plan.
35. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR

⁴ Paragraph: 034 Reference ID: 3-034-20141006