
Appeal Decision

Site visit made on 2 August 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 31st August 2017

Appeal Ref: APP/P0240/W/17/3174328

Land to the rear of Spensley Road and south east of Sampshill Road, Westoning, Central Bedfordshire

- 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 Blueline Property Ltd against the decision of Central Bedfordshire Council.
 - The application Ref CB/16/04584/FULL, dated 3 October 2016, was refused by notice dated 7 December 2016.
 - The development proposed is described as 'proposed creation of 5m access road'.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. There is no clear commonality in the appeal site address between the planning application and appeal forms and the decision notice. I have therefore taken the above, which is the most accurate reflection of the location of the site based on the evidence before me. I have proceeded on this basis.

Main Issues

3. There are six main issues. These are:
 - Whether or not the proposed development would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the openness of the Green Belt;
 - Whether or not the proposed access would be acceptable in the context of highway safety with specific regard to visibility;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on local wildlife; and
 - If the proposed development would be 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 the proposed development.

Reasons

Inappropriate Development and Openness

4. Paragraph 90 of the Framework¹ sets out other forms of development that are also not inappropriate in the Green Belt, with the proviso that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Engineering operations is one such exception. There are conflicting statements in the appellant's evidence that the road would be used to access a parcel of land that would be gifted to the parish council for use as a burial site or that it would be used for outdoor recreation. Both of these uses are identified by paragraph 89 of the Framework as not being inappropriate development in the Green Belt, subject to the same provisos as I have referred to above.
5. The key matter in any respect therefore is that the proposed development should preserve the openness of the Green Belt and not conflict with the purposes of including land within it. The undeveloped and somewhat overgrown nature of the strip of land identifies it as being distinct from the edges of the urban area which terminates with the gardens of the closest dwellings fronting onto Bunyan Road. The bisecting influence of the railway line aside, it bears a significant relationship in character terms to the open land to the east.
6. Openness is an essential characteristic of the Green Belt. Not solely limited to visual matters, it also has a spatial aspect which can be taken to mean the absence of built form.
7. The road would be five metres wide, laid over a substantial distance and would thus subsume an equally substantial swathe of open and undeveloped land. Vehicles would pass and re pass along it. In both operational development and functional terms therefore, the road would result in a net reduction in openness overall in terms of both the visual and spatial aspects of the Green Belt. Notwithstanding the appellant's assertion on the end use of the land it would access; there is no scheme before me to establish either of those that are identified. For these reasons therefore, I am not satisfied that the proposed development would preserve the openness of the Green Belt and without a clearly identified land use associated with it, it would conflict with the purposes of including land within the Green Belt.
8. With this in mind, and whilst an engineering operation, the proposed development would be inappropriate development in the Green Belt. Inappropriate development is harmful to the Green Belt by definition². Further and additional harm would be caused to the Green Belt by virtue of the net reduction in openness as I have described it. Any harm to the Green Belt should be given substantial weight³.

Highway Safety and Visibility

9. The proposed new road would connect to Sampshill Road immediately west of the elevated railway and the point where the latter bridges the former at the foot of an embankment. Whilst I observed Sampshill Road as lightly trafficked

¹ The National Planning Policy Framework 2012

² Paragraph 87 of the Framework

³ Paragraph 88 of the Framework

as part of my site visit, the close proximity of the exit of the new road to the aforementioned embankment and railway bridge would limit the ability of drivers of exiting vehicles to be able to see sufficiently clear eastwards. Thus, the vehicle they would be travelling in would have to be partially into Sampshill Road to be able to achieve adequate visibility. This would create an obstruction which in turn has the potential to compromise the safe use of the highway, impeding as it would the free flow of traffic.

10. The appellant has intimated that it may have been possible to move the exit of the proposed road further towards Bunyan Road to achieve the required visibility. This was in response to the comments of the Council's advisor from the relevant Highways Authority. Whilst this may be achievable, I do not have any revisions before me to consider which, in any event, did not form part of the planning application as it was determined by the Council. I am unable therefore to apportion this position sufficient weight.
11. For these reasons, I am of the view that the proposed development would not be able to achieve adequate visibility and as such the operation of the road would be detrimental to highway safety in the way that I have set out. This would lead to conflict with Policy DM3 of the Local Plan⁴. This Policy, amongst other things and along with the Framework, seeks to ensure high quality and contextually appropriate design and such that achieves appropriate access, safe and secure layouts that minimise conflicts between traffic.

Character and Appearance

12. The appeal site is a strip of undeveloped and largely overgrown land to the rear of the gardens associated with dwellings that front onto Bunyan Road. It is bounded to its east by an elevated railway line. Whilst densely planted and separated from the wider countryside beyond by the railway line, the area of land does not bear a sufficiently clear relationship with the more urban land uses to the west. It is separate and distinct in appearance and character terms, relating more to the open and undeveloped land to the east and beyond.
13. The siting, width and length of the proposed road would require a significant amount of the vegetation to be removed to install, use and maintain it. This would introduce a more structured, formal and thus urban form, encroaching as it would into a distinctly more rural area resulting in a fundamental change to its character and appearance. Given how this area of land frames the edge of the village at this point and thus contributes positively to the character and appearance of the area, it is my view that this fundamental change would be harmful.
14. It would therefore fail to comply with Policies DM3 and DM4 of the Local Plan. These policies, along with one of the key focuses of the Framework, seek to protect the countryside from harmful development in the interests of its character and intrinsic beauty and seek to ensure that new development is appropriate in scale and design to its setting.

Local Wildlife

15. As I have set out above, the parcel of land on which the road would be installed is largely overgrown. It has a strong sense of being left to its own devices for

⁴ Central Bedfordshire Local Development Framework Core Strategy and Development Management Policies 2009

some period of time. This contributes as much to its visual appearance as well as what it has the potential to provide. The crux of the Council's case in respect of this main issue is that, in the absence of information to the contrary, they cannot be satisfied that the proposed development would not be harmful to wildlife habitats or foraging corridors that the appeal site may be capable of supporting.

16. I acknowledge the appellant's comment that the Council have not produced any empirical evidence to support the notion that the site would have any supportive habitat present and I also note comment that a condition to require the appropriate surveys to take place would be accepted by the appellant in the event of the appeal being allowed. The Council have acted on the specialist advice of their consultant ecologist in coming to the view they did. Amongst other things, the omission of ecological information and methods of construction are noted. I am inclined to agree with the precautionary approach suggested by the ecologist given mainly the somewhat wild and unmanaged condition of the appeal site.
17. The fact remains that in the absence of anything to the contrary (beyond anecdotal comments) a decision maker cannot be satisfied that the proposed development would not be harmful to any species that may be present, some of which may be legally protected. Whilst it can be appropriate in some cases for survey work to be conditioned on a planning permission, the absence of any baseline information to begin with brings with it the inherent problem of the discovery of something significant having a fundamental effect on the location or nature of the development being granted the planning permission in the first instance.
18. I am not satisfied therefore that the proposed development would not be harmful to local wildlife. As such, it would not be acceptable in the context of Policies CS18 and DM15 of the Local Plan. These policies, amongst other things and along with the Framework, seek to minimise harm arising from new development in respect of wildlife habitat and support biodiversity enhancement.

Other Matters

19. The appellant states that they would be willing to accept a planning condition which agrees the surfacing of the proposed access road prior to the commencement of development. Whilst this would be an appropriate approach to ensuring a visually appropriate surface that could also maintain good drainage, it does not go far enough to address the concerns I have set out in my findings above. They therefore remain unchanged.

Conclusion

20. The proposed development would be inappropriate development in the Green Belt. The harm that this would cause by definition as per the Framework would be as well as the harm caused by the net reduction in its openness as I have described it as well as conflicting with the purposes of including land within it.
21. Further harm would be caused in respect of the safe use of the highway and the character and appearance of the area. Insufficient information has been provided to demonstrate it would not be harmful in respect of ecological matters. No further other considerations have been advanced, other than those

I have referred to above, to weigh against these harms. A case for very special circumstances in their light has not therefore been made.

22. With all of these factors in mind, and having regard to additional matters raised by other parties, the appeal is therefore dismissed.

John Morrison

INSPECTOR