
Appeal Decision

Site visit made on 22 November 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 13th December 2017

Appeal Ref: APP/C1950/W/17/3181293

Land adjacent to 38 Reynards Road, Welwyn, Hertfordshire

- 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 Colin Wearmonth against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2016/2669/FULL, dated 15 December 2016, was refused by notice dated 14 June 2017.
 - The development proposed is described as "Construction of a two bedroom single storey house with hard standing area for vehicles and driveway access to Reynards Road. Either the existing access or an alternative may be considered."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The address of the appeal site differs from the application form to the appeal form. I have used the address given on the appeal form as it provides greater clarity as to the location of the appeal site.

Main Issues

3. The main issues in this appeal are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - (b) the effect of the proposed development on the openness of the Green Belt and the purposes of including land within it, and on the character and appearance of the area; and
 - (c) if the proposed development would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

- (a) *Whether the proposed development would be inappropriate development in the Green Belt*
4. The appeal site is within the Metropolitan Green Belt between Welwyn and Codicote. Reynards Road is an unadopted road which runs from the B656

Codicote Road in a north-easterly direction. The road is bounded by private parkland on the southern side for much of the road's length and by large detached houses in generous plots on the northern side. Towards the end of Reynards Road, houses bound both sides of the road and there is a vehicle servicing site for grounds maintenance vehicles at No 50. Despite the appellant's view that the road is urbanised by its use by numerous vehicles to access No 50 beyond the appeal site, the road is narrow, with trees overhanging the road and informal passing places situated at some points. While it is clearly maintained and well-used, the road remains rural in nature.

5. The appeal site consists of a plot of land located between Nos 36, 36A and 38 Reynards Road. It is accessed via a gated track between Nos 36 and 36A. It has a small shed located close to the site's boundary with No 36A. Apart from some ladders, a compost bin and waste materials, the site is largely overgrown with vegetation and includes a number of mature fruit trees and conifers. There is an electricity sub-station and electricity meter housing located at the northern end of the site between Nos 36A and 38 and adjacent to Reynards Road.
6. Policy GBSP1 of the Welwyn Hatfield District Plan 2005 (the Local Plan) defines the Green Belt within the area, and the supporting text of policy GBSP1 sets out the aims of the Green Belt and its purposes, consistent with the Framework. Policies SD1, H2 and GBSP2 of the Local Plan when taken together direct new residential development towards existing towns and settlements which are outside the Green Belt, while policy R1 of the Local Plan directs development to previously developed land.
7. Paragraph 89 of the Framework regards the construction of new buildings as inappropriate in the Green Belt unless it relates to a number of exceptions listed in bullet points. The appellant considers that the most relevant exceptions are the fifth and sixth bullet points in paragraph 89 which respectively provide for "limited infilling in villages" and "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."
8. The appellant has made reference to an appeal decision in Felbridge¹, where it appears that Tandridge District Council confirmed in that instance that the site was situated within a Green Belt settlement. I am also aware that a 2015 court judgment² confirmed that settlement boundary lines in the development plan are material considerations, but are not necessarily determinative in terms of whether a site is within a village or not. It remains for the decision-maker to determine based on the circumstances before them on the ground.
9. Although there are existing houses located in large plots in a relatively linear manner along the northern side of Reynards Road close to the appeal site, the Council considers the appeal site to be located outside any settlement and within the open countryside. While I have not been provided with the location of the nearest settlement boundary, I observed on my site visit that there was no obvious functional or physical relationship with Welwyn or Codicote, or indeed Danesbury, despite the appeal site having formed part of the wider

¹ APP/M3645/A/13/2201516, decision issued 27 November 2013.

² Julian Wood v SSCLG, Gravesham Borough Council [2015] EWCA Civ 195

Danesbury Estate almost a hundred years ago. The appeal site lies adjacent to a scattered collection of houses, rather than a settlement. As such, I agree with the Council's view that the fifth bullet of paragraph 89 of the Framework would not be applicable in this instance.

10. Turning to the sixth bullet of paragraph 89 of the Framework, the appellant contends that the appeal site formed part of a parcel of land sold by the Danesbury Estate in 1922 for the development of up to 4 houses on 4 plots, with houses subsequently built at Nos 36A and 38 in the 1950s and 1923 respectively. While the 1922 conveyancing information indicates the possibility of building residential development on the appeal site at that time, it does not constitute a grant of planning permission and there is no indication that a dwelling was ever built on the appeal site. Furthermore, although planning permission was granted for the adjacent land at No 36A in 1958 and 3 houses at Nos 18A, 28A and 32 between 1958 and 2004, these permissions were granted under different national and local planning policies. I therefore give them very limited weight in my decision.
 11. The appellant also asserts that the appeal site formed part of the land at No 38 until 2012, when the house at No 38 and its grounds were separated from the appeal site, and would therefore constitute previously developed land as the previous owners used the vehicular access for site maintenance and occupied the plot with a number of outbuildings and equipment. However, the appellant has also confirmed that much of this has been cleared. Certainly, during my site visit, I saw little evidence of structures on site beyond the aforementioned shed and the electricity meter housing adjacent to Reynards Road. These structures do not indicate that the site is previously developed land.
 12. Despite the appellant's commentary on the appeal site's use for the storage of machines, building materials and the occasional parking of vehicles, its previous use for site maintenance associated with No 38, and the evidence of wheel markings along the site's access, the appellant has not provided planning permissions or lawful development certificates to confirm the site's use for the storage of machinery and materials and the parking of vehicles. As a result, and notwithstanding the presence of the shed and meter housing, I consider that there is insufficient information to show that the appeal site constitutes previously developed land.
 13. For the reasons set out above, the fifth and sixth bullet points of paragraph 89 of the Framework do not apply. There is no suggestion that any other exceptions in paragraph 89 of the Framework apply. As such, the proposed development would comprise inappropriate development in the Green Belt.
- (b) Effect on the openness and purposes of the Green Belt and on the character and appearance of the area*
14. Paragraph 79 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Notwithstanding the appellant's view regarding openness, the appeal site is evidently within the Green Belt, requiring the application of relevant national and local policy.
 15. The appeal site lies within the landscape character area of 'Danesbury Settled Slopes', where one of the key characteristics is of scattered residential

properties in large plots. The proposed development would be considerably smaller than the neighbouring properties, both in terms of the proposed bungalow and its garden space. As a result, the cramped siting of the proposed development would not be in keeping with the character of the area. This would fail to meet the requirements of policy RA10 of the Local Plan, which requires proposals for development in rural areas to contribute to the conservation, maintenance and enhancement of the local landscape character of the area, and policy D2 of the Local Plan, which seeks to ensure that development relates to and respects an area's character and context.

16. The proposed development would involve the erection of a detached single-storey house of approximately 4m in height. Though set back from Reynards Road, the proposed development would result in built development across much of the width of the appeal site. The footprint of the dwelling, its bulk, and the formal driveway and car parking area would result in a greater loss of openness and a greater encroachment of built development than currently exists on site. When viewed from the lane and even allowing for continued screening along the boundaries, the site's character would change from that of a vegetated area of land with 2 small structures to that of a detached house within its grounds. While I recognise that the site lies between two residential properties and their gardens, and notwithstanding the appellant's comments about enhancement of the site through planting and the introduction of a sympathetic building of rural character, and the nature of other development along Reynards Road including the annexe at No 38, the proposed development would not preserve the openness of the Green Belt and would conflict with the Green Belt purposes of assisting in safeguarding the countryside from encroachment. Given the scale of development and its visibility from the lane, the negative effects would be moderate.
17. The appellant has suggested that a driveway access could be inserted between Nos 36A and 38. While this may offer visibility for vehicles emerging, it would potentially increase the effect on openness by creating an additional access with the need for hard surfacing and areas of hardstanding for the parking of vehicles.
18. Thus, I conclude that the proposed development would lead to harm to the character and appearance of the area and a loss of Green Belt openness with consequent additional harm to the Green Belt. This reinforces my finding on inappropriate development above, given the requirements relating to openness and the purposes of Green Belt set out in paragraph 89 of the Framework.

Other Considerations

19. The appellant's very special circumstances hinge on 3 matters comprising a shortfall in the number of houses required in the district; a shortage of 2 bedroom bungalows in the district; and the land constituting previously developed land within the curtilage of No 38. I have addressed the issue of previously developed land in the paragraphs above.
20. The appellant has suggested that the proposed development would provide a boost to local housing supply in the district and that the Council is dependent on windfall sites to fulfil 5 year housing land supply (HLS) over the coming years. However, the Council has confirmed that its most recent Annual Monitoring Report indicates that it can demonstrate sufficient HLS. Despite the appellant's provision of information on objectively assessed housing need

relating to the examination of the emerging Local Plan, this relates to housing need to 2032, rather than the current circumstances with regard to HLS.

21. While I note the appellant's reference to site HS18 for delivery by 2021 of approximately 30 houses on land to be released from the Green Belt, I do not have detailed knowledge of the status of this site, beyond the Council's confirmation that it is a strategic site, or its site-specific circumstances relative to the appeal site. I give this very limited weight in this instance.
22. Even if I did consider that the Council cannot demonstrate a sufficient HLS and while I note the appellant's reference to the Supreme Court judgment³, paragraph 14 of the Framework states that planning 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, including policies relating to Green Belt, indicate the development should be restricted. As I have already found that the Framework policies relating to Green Belt indicate that development should be restricted, the presumption in favour of sustainable development does not apply to this appeal.
23. The appellant asserts that the provision of an energy efficient, well-insulated 2-bedroom single-storey house would meet the needs of an ageing population, in an area where existing stock does not meet today's standards and the smallest proportion of houses built in 2014/15 were 2-bedroom bungalows. Furthermore, the appellant has confirmed that the appeal site is available, suitable and achievable in the short term. The provision of a single bungalow and the consequent freeing up of another house locally would provide a modest benefit to the supply of housing, the local construction industry, and the use of local services and facilities.
24. The appellant refers to the location and accessibility of the site in relation to services and facilities, noting the presence of a bus stop within 250m of the appeal site and services in Welwyn within approximately a mile's walk. Additionally, public open space is available locally at Singlers Marsh off Codicote Road. The locational benefits of the proposed development would also be modest.
25. Reference has been made to a planning permission at Datchworth Green in East Hertfordshire. I do not know the site's specific circumstances, but it lies within a different local authority where different local planning policies are applied. As such, this planning permission has very limited weight in this instance.
26. The planning permission granted for the erection of a grinding room, vehicle servicing, ancillary office and staff facilities at John O'Conner Ltd at No 50 and the ongoing use of the site at No 50 for some 25 - 30 vehicles and grinding and industrial cleaning machinery neither renders the road urban in nature or alters the necessity to consider this appeal on its own merits.
27. I note the appellant's response to the concerns raised by objectors about the presence of a gas pipeline, access for construction materials, use of the driveway, vehicle movements, refuse collection, and working hours during

³ Suffolk Coastal District Council (Appellant) v Hopkins Homes Ltd and another (Respondents) Richborough Estates Partnership LLP and another (Respondents) v Cheshire East Borough Council (Appellant) [2017] UKSC 37
On appeals from: [2016] EWCA Civ 168, [2015] EWHC 132 (Admin) and [2015] EWHC 410 (Admin).

construction. However, this information does not alter my findings with regard to this appeal. Though I note the appellant's concern about the number of conditions proposed by the Council, the conditions appear entirely appropriate for this scale of development.

(c) If the proposal would be inappropriate development, whether the harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

28. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. In addition, there are adverse impacts on openness, the Green Belt purpose of safeguarding the countryside from encroachment, and character and appearance. Substantial weight should be given to the harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations. I also note the appellant's references to a number of legal judgments⁴ with regard to very special circumstances.
29. I give modest weight to the supply of an additional housing unit in the form of a 2-bedroom bungalow, benefits to the local construction industry, and the additional use of and access to local services and facilities. This weighs in favour of the proposed development, and I am mindful of the importance placed on the provision of new housing in the Framework. That said, it is relevant to bear in mind that only a single new home would be provided. Very limited weight is attached to other planning permissions in other local authorities referred to by the appellant, by reason of their different site-specific circumstances.
30. I conclude that the substantial weight to be given to Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances. Therefore, the development would not accord with Section 9 of the Framework and policies H2, SD1, R1, RA10 and D2 of the Local Plan. The Council has provided Supplementary Design Guidance, but in the absence of a specific section of the document being referred to, I have not considered the proposed development against it.
31. Thus, the harm to Green Belt and character and appearance is not clearly outweighed by other considerations. Consequently, there are not the very special circumstances necessary to justify inappropriate development in Green Belt.

Conclusion

32. For the reasons given above, and having taken into account all other matters raised, the appeal should be dismissed.

J Gilbert

INSPECTOR

⁴ Basildon v FSS and Temple [2004] EWHC 2759 (Admin); SB Herba Foods Ltd v Secretary of State for Communities and Local Government and South Cambridgeshire District Council [2008] EWHC 3046; Hunston Properties Ltd v Secretary of State for Communities and Local Government [2013] EWHC 2678; and R(Wildie) v Wakefield MBC [2013] EWHC 2769.