



Appeal Decision

Site visit made on 2 July 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 July 2019

Appeal Ref: APP/B1930/W/19/3227441

Land Rear of 261 Lower Luton Road, Wheathampstead AL4 8HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal for grant of permission in principle.
 - The appeal is made by KFH Property Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/18/2774, dated 15 November 2018, was refused by notice dated 21 November 2018.
 - The development proposed is construction of five dwellings.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was made for grant of permission in principle relating to location, land use and the amount of development with all matters reserved for future consideration. I have determined the appeal on this basis, treating the submitted plans and details provided as illustrative other than location, land use and the amount of development.

Main Issues

3. The main issues are:
 - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
 - (ii) The effect of the proposal on the openness of the Green Belt; and
 - (iii) Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

4. The appeal site comprises of a restaurant with a detached garage at the side and some outbuildings at the rear. It is located within a large spacious landscaped plot on the Lower Luton Road (B653) within the Metropolitan Green Belt between the built up areas of Batford and Harpenden to the west and Wheathampstead to the east. A linear pattern of residential development is

located to the north and east of the site and open fields to the south and west. The proposal would involve the retention of the existing restaurant and erection of five detached dwellings at the rear with access off Lower Luton Road.

Whether inappropriate development in the Green Belt

5. The appeal site is within the Green Belt and the National Planning Policy Framework February 2019 (the Framework) states at paragraph 143 that inappropriate development in the Green Belt is harmful by definition and should not be approved except in very special circumstances.
6. Paragraph 145 of the Framework establishes that, within Green Belts, the construction of new buildings is inappropriate, subject to a number of exceptions. These exceptions include the partial or complete redevelopment of previously developed land, whether redundant or in continuing use and the provision of limited infilling in villages.
7. Saved Policy 1 of the City and District of St Albans Local Plan Review (adopted November 1994) (LP) sets out the Green Belt Policy for the plan area. Whilst the aim of LP Saved Policy 1 to control development in the Green Belt remains consistent with the aims of the Framework, the policy is not as extensive in its coverage of the various types of development permitted as exceptions in such locations. For this reason, LP Saved Policy 1 does not reflect the positive approach in the Framework and would not be fully consistent with it.
8. In contrast to the relatively built up frontage, the appeal site at the rear of the restaurant includes a long spacious parcel of land with a hard surfaced car park, some outbuildings and dilapidated structures associated with the previous use of the land as a pub garden. These, however, are limited in nature and from my observations on my site visit, the majority of the appeal site contains open and undeveloped land and as such would be excluded from the definition of Previously Developed Land as defined in Annex 2 of the Framework. However, even if my conclusion on this point is disputed, paragraph 145(g) sets out further qualifications. In this case, the existing outbuildings and structures at the rear are small scale in nature and I consider the construction of five detached dwellings on the site would have a greater impact on the openness of the Green Belt than the existing development on the site.
9. I am not persuaded that the proposal would meet any of the other exceptions for development within the Green Belt as set out in the Framework. In particular, the proposal would not meet with paragraph 145(d) because the replacement buildings would be materially larger than the existing buildings and are not in the same use. In terms of paragraph 145(e) even if the site was judged to fall within a village, the site is largely separated from other development on this side of Lower Luton Road and, therefore, the proposal would not infill a small gap in an otherwise continuous built frontage which, in my view, would be necessary, in this respect, to meet with this exception.
10. In relation to paragraph 145(f) relating to the affordable housing. Although I note the appellant's willingness to provide a housing development for people with ties to the local area or more formalised key worker/affordable housing, little substantive evidence has been provided to show how this would address the identified local community needs or be secured to meet these needs in the long term. Given this situation and in the absence of any convincing evidence

to deal with the principle of such a development, I conclude that the proposal would not meet with this exception.

11. Consequently, the proposal would constitute inappropriate development in the Green Belt that is, by definition, harmful to the Green Belt and should not be permitted except in very special circumstances. It conflicts with the aims of the Framework and LP Saved Policy 1 but for the reasons indicated above, the weight to be attached to the policy conflict with Policy 1 should be reduced. In accordance with the Framework, I attach substantial weight to the harm arising due to the inappropriate nature of the development in this location.

Openness of the Green Belt

12. The fundamental aim of Green Belt Policy is to prevent urban sprawl by keeping land permanently open. The Framework advises at Paragraph 133 that openness and their permanence are essential characteristics of Green Belts. Openness is generally defined by an absence of built form and not necessarily to visibility.
13. It is clear from the evidence provided and from my observations during my site visit that, given the screening provided by the mature landscaping around the site and topography of the site and immediate surroundings, the proposed dwellings would not be highly visible in the wider landscape. Nonetheless, on a more local level, the proposed dwellings would not amount to a subservient form of development on the appeal site. The proposal would result in an increase in the built form in the area which would compromise the sense of openness and would fail to keep the land permanently open.
14. Consequently, I conclude that the development would result in harm to the openness of the Green Belt and as such would conflict with the aims of the Framework which seek to preserve the openness of the Green Belt. I give substantial weight to that harm.

Other Considerations

15. I have noted the main parties comments regarding the planning history of the site and its commercial designation in association with the restaurant use. Whilst this may be so, this relates to a different scale and form of development to the appeal proposal and the residential development considered on the site in 2002 was dismissed on appeal in a different policy context¹. In any event, each proposal falls to be assessed primarily on its own merits and such are matters to which I can attach only limited weight in making this decision.
16. The appellant considers that the proposal would provide a sustainable form of development. The appellant states that the proposal would be well connected to existing services and facilities and provide social and economic benefits through contributing to the supply and mix of housing in the area, creating employment opportunities, supporting the local economy and the local services and facilities. In environmental terms, the appellant states that the scheme's effective use of the land and improvements to the appearance of the underused site, reduced traffic movements and the accessibility to services by alternative modes of transport would amount to environmental

¹ APP/B1930/A/02/1106479

benefits. Overall, these are benefits that would result in moderate weight in favour of the appeal scheme.

17. The Council confirm that it cannot demonstrate a five year supply of deliverable housing sites. Consequently, the appellant argues that the proposal would provide much needed housing and the presumption in favour of sustainable development at paragraph 11 of the Framework should be engaged. This would be in accordance with footnote 7 of the Framework which would render the policies within the Local Plan that are the most important for determining the appeal to be out-of-date. Given the severe shortfall in housing provision in the area, the additional housing makes a positive, albeit modest contribution to the supply of housing in the area.
18. However, footnote 6 of the Framework specifically states that land designated as Green Belt is one of those areas that is to be protected and in accordance with paragraph 11(d), I have found that the policies in the Framework provide a clear reason for dismissing the development proposed. As such the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.

Very Special Circumstances

19. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have concluded that the proposal would harm the openness of the Green Belt. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt.
20. Having considered all of the matters raised in support of the development, I conclude that, collectively, they do not outweigh the totality of the harm I have identified in relation to the Green Belt. I am not satisfied that any material considerations have been put forward of sufficient weight to outweigh the very strong public interest in protecting the Green Belt from inappropriate development. Accordingly, very special circumstances do not exist and the principle of the development would be contrary to LP Saved Policy 1 and the Framework.

Conclusion

21. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR