



Appeal Decision

Site visit made on 19 August 2019

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th November 2019

Appeal Ref: APP/B1930/W/19/3230187

Cherry Trees, 261 Lower Luton Road, Marshalls Heath, Herts AL4 8HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for permission in principle.
 - The appeal is made by KFH Property Ltd against St Albans City & District Council.
 - The application Ref 5/2019/0975, is dated 11 April 2019.
 - The development proposed is 1 new dwelling.
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Decision

1. The appeal is dismissed and permission in principle is refused.

Procedural Matters

2. The appeal application is for permission in principle, as provided for in the Town and Country Planning (Permission in Principle) Order 2017. The Planning Practice Guidance (PPG)¹ states that the scope of permission in principle is limited to location, land use and amount of development. Other matters should be considered at the technical details consent stage. Accordingly, I have considered only the issues relevant to those 'in principle' matters in my determination of the appeal.
3. The appeal was submitted on the basis of the failure of the Council to determine the application for permission in principle within the prescribed period. The Council has submitted an appeal statement which sets out its objections to the scheme and I have had regard to theses in reaching my decision.

Main Issue

4. The main issue is the effect of the proposal in relation to the Green Belt as follows:
 - a) 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;
 - b) the effect of the proposal on the openness of the Green Belt; and
 - c) if the proposal is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by

¹ Paragraph: 012 Reference ID: 58-012-20180615

other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

5. The appeal site is part of a disused play area/garden occupied by a single-storey garage and disused outbuilding. It is part of a larger site in the appellant's ownership, forming the grounds to 261 Lower Luton Road (No 261), which is currently operated as a restaurant. The site is within the Metropolitan Green Belt between the built up areas of Batford and Harpenden to the west and Wheathampstead to the east. The proposal is for the erection of a single dwelling with access through the restaurant car park, on the area of land currently occupied by the garage and outbuilding.

Whether inappropriate development in the Green Belt

6. The National Planning Policy Framework 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. Saved Policy 1 of the City and District of St Albans Local Plan Review 1994 (the Local Plan) seeks to strictly control development in the Green Belt, but is not fully consistent with the details set out in the Framework. Paragraph 145 of the Framework sets out that the construction of new buildings in the Green Belt is inappropriate, subject to a number of exceptions, several of which are relevant to this case.

a) Replacement building

7. Paragraph 145(d) allows for a replacement building, provided it is in the same use and not materially larger than the one it replaces. The existing building is a garage and disused outbuilding which were part of the commercial use of the site. They are not therefore residential uses. A dwelling would therefore be a change of use.
8. As the application seeks only permission in principle at this stage, the design and detail of the proposed development are not before me. The existing buildings are shown on the drawings to have a footprint of around 37.5sqm. However, the proposed site plan indicates a much larger building with a footprint of 63.7sqm. This would be significantly larger than the existing buildings. The proposal would therefore not meet the exception set out in paragraph 145(d) as it would fail on both counts.

b) Limited infilling in villages

9. The appeal site is on the south side of Lower Luton Road within the rear garden of No 261. To the west of the site there are open fields. On the north side of Lower Luton Road and to the east, on the opposite side of Cherry Tree Lane, there is linear residential development. Whilst No 261 may be considered to form part of this cluster of residential development, the appeal site, being set some distance back from both road frontages within the garden area, is not directly adjacent to existing development. On this basis, the proposed development of this site could not be considered to be limited infilling.

c) Limited affordable housing

10. The Framework permits limited affordable housing for local community needs under policies set out in the Local Plan. I accept that housing on this site could

be used to provide an affordable home that could meet local needs. However, no substantive evidence to demonstrate that this could be secured was provided. In the absence of this evidence, I do not consider the proposal would meet the exceptions set out in either paragraphs 145(f) or (g) in respect of affordable housing provision.

d) Redevelopment of previously developed land

11. The appeal site is occupied by a garage and outbuilding and it could therefore be considered to be previously developed land (PDL). Paragraph 145(g) allows for the partial or complete redevelopment of PDL in certain specific circumstances.
12. As I have already found, the proposed dwelling would be materially larger than the existing single storey buildings. Even if the site is considered PDL, its redevelopment would nevertheless have a greater impact on the openness of the Green Belt than the existing development on the site due to its increased size. It would also not provide affordable housing. It would therefore not meet the exception set out in paragraph 145(g).

e) Findings

13. For all these reasons, I conclude that the proposal would be inappropriate development in the Green Belt. It would conflict with national policy to protect the Green Belt and be contrary to Saved Policy 1 of the Local Plan. In accordance with the Framework, I attach substantial weight to this harm.

Openness of the Green Belt

14. Paragraph 133 of the Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It identifies openness as an essential characteristic of the Green Belt. There is no definition of 'openness' in the Framework, but it is commonly taken to mean the absence of built or otherwise urbanising development regardless of any visual effects.
15. The parcel of land forming the appeal site is occupied by an outbuilding and garage with limited hard surfaced areas. A fence runs along the north boundary between the appeal site and the restaurant car park. The site is screened on its west boundary by hedges and mature trees. There is no enclosure of the site from the disused restaurant garden.
16. In spatial terms, the removal of the existing buildings from the appeal site and their replacement with a house with associated car parking spaces would amount to a more substantial form of development on the site. The new house would occupy a larger footprint and would be likely to be taller and bulkier than the existing buildings. The car parking would require the creation of a new hard surfaced area. Furthermore, some form of enclosure of the new dwelling would be required to separate it from the restaurant garden. These factors together would increase the amount of built development on the appeal site and would harm the sense of openness.
17. I acknowledge that various buildings, hardstanding and other paraphernalia are within the appellant's ownership and could be removed from the wider site. This could compensate for loss of openness arising from the development. However, as this land is outside the appeal site, there is no effective means of

securing those changes and improvements in perpetuity. These improvements could be undertaken in any event.

18. As the wider site is well screened by mature hedges and trees, therefore the proposed dwelling would not be highly visible in the wider landscape although it would be seen from within the restaurant grounds. The significant reduction in the amount of development from a previous dismissed appeal² would reduce its impact. Nevertheless, a standalone dwelling set within the wider grounds of the restaurant site would appear to be an alien and incongruous form of development that would be harmful to the visual amenities and would compromise the openness of the Green Belt.
19. Consequently, I conclude that the development would result in harm to the openness of the Green Belt conflicting with the Framework's aims in that regard. I give significant weight to that harm.

Other Considerations

20. I accept that the location which is accessible by means other than the private car, a benefit to which the Inspector for the previous scheme gave moderate weight. I also give this moderate weight.
21. My attention has been drawn to a permission in 2002 for a significantly sized detached garage on site. However, this scheme was not implemented, is not extant and is of little relevance to my assessment of the appeal proposal.

The Green Belt Balance

22. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also concluded that it would harm the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 144 of the Framework.
23. There are no other considerations in favour of the proposal that clearly outweigh the harm I have identified to the Green Belt. Consequently, the very special circumstances necessary to justify the development do not exist.
24. I appreciate that the Council cannot demonstrate a five year supply of deliverable housing sites. However, a single dwelling would make a minimal contribution to any shortfall in the supply of housing. In any event the Government's approach to protecting the Green Belt and the advice set out in Paragraph 11(d)(i) of the Framework provides a clear reason for finding the scheme to be unacceptable. It is not a sustainable development for which the presumption in favour applies.

Conclusion

25. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and permission in principle refused.

Rachael Pipkin

Inspector

² APP/B1930/W/19/3227441