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## Appeal Decision

Site visit made on 22 October 2019

**by Matthew Woodward BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 18<sup>th</sup> November 2019**

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**Appeal Ref: APP/N1920/W/19/3229315**

**Sunny Bank Junior and Infant School, Field View Road, Potters Bar  
EN6 2NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr Dick Bowler (Hertfordshire County Council) against the decision of Hertsmere Borough Council.
  - The application Ref 18/1475/OUT, dated 20 July 2018, was refused by notice dated 17 April 2019.
  - The development proposed is for the demolition of existing Sunnybank School building and former caretaker's house, removal of hardstanding areas, and development of up to 30 new homes with associated access arrangements and ancillary works.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application was submitted in outline form with all matters reserved for future consideration, except for access. Therefore, I have treated the submitted 'masterplan', which shows details of layout and landscaping, as indicative only.

### Main Issues

3. The main issues in this case are whether or not the proposal would:
  - be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including its effect on the openness of the Green Belt;
  - result in the unacceptable loss of a community facility;
  - make adequate provision for public open space; and,
  - if the development would be inappropriate, whether the harm by reason of inappropriateness and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

## Reasons

### *Whether inappropriate development*

4. The Framework states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 145 of the Framework makes it clear that new buildings are inappropriate in the Green Belt, subject to a number of exceptions. One exception, set out in paragraph 145(g) concerns the limited infilling or partial or complete redevelopment of previously developed land providing that a) it would not have a greater impact on the openness of the Green Belt than the existing development, or b) would not cause substantial harm to openness where it would contribute to meeting an affordable housing need within the local area.
5. Neither Policy CS13 of the Hertsmere Local Plan Development Plan Document Core Strategy 2013 (Core Strategy), nor Policy SADM26 of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan 2016 (SADMP) fully reflect the provisions of the Framework in respect of development within the Green Belt. The policies predate the Framework and whilst they are consistent in the way they identify inappropriate development to be harmful to the Green Belt, they do not go on to identify the exceptions which are relevant to this appeal, as set out in paragraph 145(g) as referenced above. Therefore, I give these policies limited weight in my consideration of this appeal.
6. The proposal would provide 7 affordable housing units, which in principle and in terms of the number proposed, the Council do not object to. However, the Council contends that the proposal would not provide affordable housing over and above what would be expected on any similar development in the borough. Even so, the Framework's stipulation is that affordable housing would need to 'contribute to meeting' an identified affordable housing need. In this case, as the Council are satisfied with the number of affordable units proposed on the basis that they would address affordable housing policies in the Core Strategy, I am satisfied that the intended aim of the proposal would be to contribute to meeting an identified affordable housing need in the local area as required by paragraph 145(g) of the Framework.
7. According to the Framework<sup>1</sup>, previously developed land comprises land occupied by a permanent structure, including the curtilage of the developed land. The appeal site comprises a former school building and a caretaker's house which includes an extensive area of hardstanding and grass land around it, previously used as a school playground, access roads and areas for parking, and as playing fields. On this basis, I concur with the main parties that the appeal site is previously developed land. The issue therefore hinges on whether the development would cause substantial harm to the openness of the Green Belt.
8. The term 'openness' is essentially a three-dimensional concept which effectively denotes an absence of buildings and development. However, no calculations of the volume of the existing buildings or those proposed have been provided. Nevertheless, the appellant has provided development footprint calculations. The existing school footprint and playground to be

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<sup>1</sup> See 'Annex 2: Glossary' – the National Planning Policy Framework 2019

demolished would amount to 5,495m<sup>2</sup>. Conversely, the total built floor space of 30 dwellings and associated garages would be approximately 3,945m<sup>2</sup>. However, the existing hardstanding area is relatively flat and has a limited impact on the openness of the Green Belt in comparison with the buildings. Therefore, I have also taken into consideration the total floorspace figure associated solely with the school building, which would be just over 2,120 m<sup>2</sup>, although this excludes the caretaker's house. However, it appears to me from the evidence that the floorspace associated with the new dwellings would be greater than the floorspace associated with the existing buildings.

9. I have exercised caution in comparing the aforementioned floorspace figures. Firstly, floorspace is calculated on a two-dimensional basis and this does not give a clear indication of the overall effect of a proposal on the openness of the Green Belt. Secondly, the proposal is in outline form and therefore, the figures at this stage could only ever be an approximation pending subsequent consideration of the details at reserved matters stage. Therefore, whilst I have used the floorspace figures provided by the appellant, I have also considered the visual and spatial effects of the proposal on the ground, taking into account the existing make-up of the site and the nature of the proposal.
10. Accepting that the submitted masterplan is indicative, it is clear that to accommodate the number of dwellings proposed, whatever the final form of the development, it would require dwellings to be erected on land that is currently hardstanding and grass. In this regard, whilst the existing school block would be taller than, and would be replaced by, a number of modest sized dwellings which would be interspersed more sparsely in place of the school building, most of the remaining dwellings would be built on areas of the site which are occupied by hardstanding or grass fields. Even taking into account the topography of the site, which would reduce the prominence of dwellings proposed on the northern portion of the site, the proposal would introduce numerous dwellings on large areas of the site which are currently devoid of buildings. The overall effect would be to substantially reduce the openness of the appeal site.
11. Some of the appeal site is slightly elevated above existing houses to the north and east but obtainable views would be reduced from many properties and surrounding streets by the presence of vegetation along the site boundary and the existing built form. Therefore, the appeal site is not in an exposed location and the perception of openness is reduced by the backdrop of the existing housing and the site's topography. The proposal would also result in an increase in openness on some parts of the appeal site, primarily as a result of the removal of the existing school building and former caretaker's house. However, this does not detract from my overall findings that the development would cause substantial harm to the openness of the Green Belt.
12. Even if I was to conclude that the proposal would cause less than substantial harm to the openness of the Green Belt, there is no planning obligation or mechanism in place to secure the provision of affordable housing. I also find that the development would have a greater impact on the openness of the Green Belt than the existing built form. Therefore, the proposal would not meet either of the exceptions set out in paragraph 145(g) of the Framework.
13. In conclusion, the proposal would cause substantial harm to the openness of the Green Belt. It would be a form of inappropriate development which, by

definition, would be harmful to the Green Belt and should not be approved except in very special circumstances. It would conflict with paragraph 145 of the Framework which requires that development on previously developed land would not have a greater impact on the openness of the Green Belt than the existing development, or cause substantial harm to the Green Belt in the case of development that contributes to an identified affordable housing need. The development would also conflict with Policy CS13 of the Core Strategy and Policy SADM26 of the SADMP which seeks to protect the Green Belt from inappropriate development, except in very special circumstances.

#### *Community facility*

14. The existing school building has been disused since 2008 and the appeal site has remained largely unused since this time. Policy CS19 of the Core Strategy seeks to protect key community facilities unless they are found to be surplus to requirements, or not fit for purpose. The Inspector, in reporting on the Examination into the Hertsmere Local Plan<sup>2</sup>, concluded that the former school was not a facility in public use and was not an existing community facility. I saw on my site visit that the school building was boarded up and there is nothing in the evidence before me to contradict the findings of the Examination Inspector, and no evidence has been presented to me which indicates that the site comprises a key community facility that is fit for purpose.
15. Consequently, I find that the proposal would not lead to the unacceptable loss of a community facility. It would comply with Policy CS19 of the Core Strategy and Policy SADM32 of the SADMP which require, amongst other matters, that key community facilities are protected unless it can be demonstrated that they are surplus to requirements or not fit for purpose. However, the lack of harm in this respect is not a positive factor weighing in favour of the scheme.

#### *Open space*

16. Policy SADM37 of the SADMP requires that developments in excess of 50 dwellings or 2500m<sup>2</sup> provide open space, preferably on-site. The appellant is of the opinion that the '2500m<sup>2</sup>' requirement set out in the policy relates to non-residential uses, thus the development would not be required to provide open space given the proposal is for less than 50 dwellings.
17. However, to my mind, Policy SADM37 is written in a lucid way and it does not state that the floor space requirement would only relate to non-residential developments, and there is nothing in the Policy to suggest that it would. Therefore, I have no reservations in coming to the view that the development would be required to provide open space as the appeal scheme would comprise an external floorspace in excess of 2500m<sup>2</sup>.
18. As 'layout' is a reserved matter, the way in which buildings, routes and open spaces within the development would be provided, situated and orientated in relation to each other, would be determined at reserved matters stage. However, as the submitted masterplan is indicative, it is unclear whether the final development form would be able to deliver sufficient open space within the appeal site. I note that there is flexibility contained within Policy SADM37 which would allow a financial contribution to be made to fund off-site open

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<sup>2</sup> Inspector appointed by the Secretary of State for Communities and Local Government - Report on the Examination into the Hertsmere Local Plan (site allocations and development management policies) dated 14<sup>th</sup> September 2016

space, either in full, or part, depending on the feasibility of providing open space on-site. However, the appellant has not provided me with adequate assurance that the open space could be delivered on-site, and there is no planning obligation or mechanism in place to secure the provision of open space either on-site or off-site.

19. Therefore, in conclusion, it has not been adequately demonstrated that the proposal would provide sufficient open space either on-site, or as an off-site contribution. Consequently, I find that the proposal would conflict with the requirements of SADM37 of the SADMP which requires, amongst other matters, that new open space which includes biodiversity benefits and which may include a sustainable urban drainage system, is provided on appropriately sized development sites.

#### *Other considerations*

20. The Framework requires me to come to a view as to whether or not, in Green Belt terms, there are other considerations that clearly outweigh the totality of the identified harm so as to amount to very special circumstances. In this regard, the proposed development would provide up to 30 dwellings on brownfield land which would contribute to local and borough wide housing supply, a matter to which I apply significant weight.
21. In addition to the above, there would be indirect benefits to the local economy from the spending potential of future occupiers of the dwellings, and direct and indirect benefits from the construction phase. This matter carries modest weight in favour.
22. There would potential benefits from the proposed additional landscaping which may bring about biodiversity benefits. However, limited details have been provided at this stage and it is a matter to which I apply only limited weight in favour.

#### *Other matters*

23. I note that representations were made by local residents, some of whom raise additional concerns, including highways and drainage. However, given my findings on the main issues, it is not necessary to consider these matters in detail.
24. The appeal site was promoted as a potential housing site through the emerging Local Plan Examination process, but no decision has been made concerning any changes to the Green Belt boundary in relation to the appeal site, and the emerging Local Plan does not form part of the development plan. This consideration does not detract from the fact that the appeal site lies in the Green Belt, and the primary concern in this case, as set out in my reasoning, relates to the impact of the proposal on the openness of the Green Belt.

### **Conclusion and planning balance**

25. The proposal would be inappropriate development in the Green Belt which is harmful by definition. According to the Framework, substantial weight should be attributed to any harm to the Green Belt. In addition, I have found that the development would lead to substantial harm to the openness of the Green Belt. The development would also fail to make adequate provision for open space.

26. Against this, whilst I find that the proposal would not result in the unacceptable loss of a community facility, this is a neutral factor which neither weighs in favour or against the appeal.
27. In terms of social benefits, I attach significant weight to the contribution the scheme would make to local housing supply, in line with the aim of significantly boosting the supply of homes, as advocated by the Framework. Other material factors that weigh in favour of the proposal include modest economic benefits and limited biodiversity and landscaping benefits. However, in combination, these benefits are not sufficient to clearly outweigh the harm I have identified.
28. I therefore conclude that the harm by reason of inappropriateness, and any other harm, is not clearly outweighed by other considerations, such that the very special circumstances necessary to justify the development do not exist. Thus, the appeal should be dismissed.

*Matthew Woodward*

INSPECTOR