
Appeal Decision

Site visit made on 18 February 2020

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2020

Appeal Ref: APP/B1930/W/19/3241475

Woodbury Manor, Lye Lane, Bricket Wood AL2 3TW

- 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 William Dewar against the decision of St Albans City & District Council.
 - The application Ref 5/19/0520, dated 1 March 2019, was refused by notice dated 23 May 2019.
 - The development proposed is replacement of existing structures with 3 chalet bungalows.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was in outline form with all matters reserved for subsequent consideration. I have consequently treated the submitted drawings showing a proposed site plan, floor plans and elevations for the proposed dwellings as being for illustrative purposes only.
3. The description of proposed development shown on the Council's decision notice is different to that shown on the outline planning application form. Neither of the main parties has provided written confirmation that a revised description has been agreed. Accordingly, I have used the description shown on the outline planning application form in the banner heading and determined the appeal on this basis.

Main Issues

4. The main issues are:
 - Whether 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; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

Reasons

Inappropriate development

5. Saved Policy 1 of the City and District of St Albans District Local Plan Review 1994 (the LP) states that the whole of St. Albans lies within the Green Belt except for 4 areas, including the towns and specified settlements listed in Policy 2. The appeal site is located outside the specified settlement of Bricket Wood shown on the Proposals Map. It is therefore located in the Green Belt.
6. The appellant submits that it is questionable whether the site is in the Green Belt. Nevertheless, paragraph 136 of the Framework states that once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The scope of the appeal process does not allow for a consideration of the merits of an individual site being within the Green Belt or for the Green Belt boundary to be redefined. I must therefore determine the appeal on the basis that it is within the Green Belt.
7. The Framework in paragraph 143 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 development, subject to a limited number of exceptions.
8. Policy 1 of the LP seeks to restrict development in the Green Belt. It sets out a number of exceptions to this or allows development in very special circumstances. It does not, however, fully align with the Green Belt policies of the Framework as the exceptions are more restrictive than those set out in the Framework.
9. Paragraph 145(g) of the Framework includes an exception which is not included in Policy 1 of the LP. This concerns the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), providing that it would not have a greater impact on the openness of the Green Belt than the existing development.
10. There is disagreement between the main parties as to whether the appeal site is previously developed land. According to the Framework¹, previously developed land comprises land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes, amongst other things, land that was last occupied by agricultural or forestry buildings; land in built-up areas such as residential gardens; and, land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.
11. The appellant states that the proposed dwellings would be built in disused garden within the curtilage of Woodbury Manor, which over the years has been used for plant propagation, bonfires and storage of garden machinery. Based on the evidence before me and from what I observed at my site visit, I am satisfied that the appeal site is within the garden associated with Woodbury

¹ See 'Annex 2: Glossary' – the National Planning Policy Framework 2019

Manor. Furthermore, given its location in the Green Belt outside the specified settlement of Bricket Wood in a predominantly open and wooded setting, the appeal site is not land in a built-up area.

12. I have had regard to the Council's observation that the application form states that the last use of the site was for horticulture and equestrian with greenhouse and stables (which are now demolished). However, there is no substantive evidence before me to show that this was for purposes separate to the residential use of Woodbury Manor. I therefore find that the appeal site constitutes previously developed land. In order to meet the exception in paragraph 145(g) of the Framework, the question is whether or not the proposal would have a greater impact on the openness of the Green Belt than the existing development.
13. The Framework advises that openness and permanence are the essential characteristics of the Green Belt. Openness is the absence of development and it has both spatial and visual aspects.
14. The Design & Access Statement (the DAS) submitted with the planning application states that the existing buildings on the appeal site have a footprint of 552 square metres and that the proposed dwellings would result in a reduction in footprint of 150 square metres. It is also stated that existing hard-core would be replaced with gardens; a hedge will be planted on the south-western boundary; and the buildings would be moved to the south-western corner of the site.
15. The Council's officer report and appeal statement dispute the calculations shown in the DAS in respect of the footprint of the existing buildings. In particular, the Council highlights that the greenhouse and stables have been demolished and therefore the footprint of these buildings should not be counted. It states that the footprint of the existing buildings is 205 square metres. The appellant's statement comments that the Council's calculations are not correct, however no further information is provided. At my site visit I saw 2 single storey buildings; a caravan; a small shed; and, 2 shipping containers. Based on what I observed at my site visit, I prefer the Council's calculations.
16. The Council states that the footprint of each proposed dwelling would be 211 square metres, which would give a total footprint of 633 square metres for the 3 dwellings. This is approximately in line with the indicative floor plans. Therefore, based on the evidence, it appears to me that the footprint associated with the new dwellings would be greater than the footprint of the existing buildings.
17. Nevertheless, I have exercised caution in comparing the aforementioned footprint figures. Firstly, footprint 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 had regard to the footprint calculations of the existing and proposed buildings, I have also considered the visual and spatial effects of the proposals, taking into account the existing make-up of the site and the nature of the proposal.

18. I recognise that the application is outline with all matters reserved and any permission could be subject to conditions. Nonetheless, the illustrative information before me indicates that the existing low-level buildings would be removed and replaced by 3no dwellings at a greater height and volume than the existing buildings. Whilst the site is visually contained due to the screening provided by trees, it would have a significantly greater spatial impact on the openness of the Green Belt.
19. Consequently, the proposed development would, by virtue of its permanence and size, have a significantly greater impact on openness than the existing development. Therefore, I find that the proposal would not meet the exception in paragraph 145(g) of the Framework.
20. The DAS refers to the exception in paragraph 145(e) of the Framework, which relates to limited infilling in villages. The Framework does not provide a definition of the term infilling, however the term is generally understood to denote the development of a relatively small gap within an otherwise built up frontage.
21. The appeal site is located outside the specified settlement of Bricket Wood. The compact suburban development pattern of the village changes to a more rural character along Lye Lane. The appeal site is accessed from Lye Lane, which is a rural tree-lined unlit road with no pavements. The wide frontage and wooded setting of the appeal site contrasts with the compact suburban development pattern to the south-west. Having regard to the facts on the ground, I would not describe the appeal site as being located within the village, notwithstanding that it is close to the settlement boundary.
22. Even if I was to conclude that the site was within the village, I do not consider that the proposal would constitute infilling. Infilling is not defined in the Framework and therefore remains a matter for the decision maker. Whilst the dwellings to the south-west in Meadow Close are positioned close to the appeal site, the proposed development would not be seen in the same context. This is because the proposal would be accessed from a different road which has a more rural character. The proposed dwellings would be positioned to the rear of the properties in Meadow Close and therefore would not be seen as infilling a small gap in a frontage. Furthermore, taking into account the size of the appeal site, and the substantial separation to the dwellings to the north-east, I do not consider that the proposed development represents the infilling of a small gap in the context of its relationship to existing development. Consequently, I find that the proposal would not meet the exception in paragraph 145(e) of the Framework.
23. The DAS further submits that the exception in paragraph 145(c) of the Framework applies to the development. This exception relates to the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. The proposal is not for the extension or alteration of a building and therefore I find that this exception does not apply to the proposed development.
24. The DAS also advances paragraph 146(d) of the Framework. However, this criteria relates to the re-use of buildings that are of permanent and substantial construction. The existing buildings would not be re-used and therefore paragraph 146(d) does not apply to the proposal.

25. For the above reasons, I find that the proposal would not meet the exceptions in paragraph 145 or comprise the forms of development set out in paragraph 146 of the Framework. Furthermore, it would not meet the exceptions set out in Policy 1 of the LP. The proposal therefore constitutes inappropriate development in the Green Belt when assessed against the Framework and relevant policies in the Development Plan, which, by definition, would be harmful to the Green Belt and should not be approved except in very special circumstances.

Other considerations

26. It is not disputed that the Council is unable to demonstrate a 5 year Housing Land Supply (HLS). The proposed development would make a limited contribution of 3 dwellings towards housing supply which weighs in favour of the proposal. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly as indicated in paragraph 68 of the Framework.
27. The proposal would create some employment at construction stage, although this would be relatively short lived and so a relatively limited benefit. The occupiers of the proposed dwellings would help to support local facilities and services, although the economic contribution from the occupiers of 3 dwellings would be a modest benefit.
28. The appellant states that the proposed dwellings would have exceptional eco qualities and innovative in design. The features outlined in the DAS include: locally sourced timber; electric car-charging points; thermal efficient walls and windows; large central window to create light; grey water harvesting; photovoltaic tiles and thermal panels; a heat source pump and underfloor heating. It is stated that the proposed dwellings would be 'off-grid'.
29. Whilst the environmentally sustainable design approach is commendable, the indicative design of the proposal is relatively simple in form and the features proposed are relatively well-known techniques for achieving sustainable construction. I therefore do not find the proposal to be of exceptional quality or truly innovative design. The assertion that the Council would retain the ability to influence the details in any reserved matters application does not provide sufficient assurance that the final design would be of exceptional quality or innovative.
30. Additional planting and the replacement of hard-core with grass would provide limited ecological enhancement.
31. I note the letters of support for the proposed development from local residents.
32. There are no refusal reasons relating to matters such as living conditions, highway safety or parking provision. However, the absence of harm in these respects weighs neutrally and does not amount to a consideration in support of the appeal.
33. The DAS refers to other developments in the area, including a planning permission under reference 5/2014/2418. However, full details are not before me and I have nevertheless determined the appeal scheme on its own planning merits.

Green Belt Balance

34. I have found that the proposal would be inappropriate development, which would, by definition, be harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework states that substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
35. I have had regard to other considerations in favour of the proposed development. Nonetheless, taken together, I find that the other considerations in favour of the appeal scheme would not clearly outweigh the harm to the Green Belt by reason of inappropriateness. Consequently, the very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
36. The proposed development would therefore conflict with Chapter 13 (Protecting Green Belt land) of the Framework, which states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It would also be contrary to saved Policy 1 of the LP, which seeks to restrict development in the Green Belt.

Conclusion

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

C Osgathorp

INSPECTOR