



Appeal Decision

Site visit made on 24 September 2019

by Christopher Butler BA (Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 March 2020

Appeal Ref: APP/C1950/W/19/3227950

Land rear of Nos 10-18 Mymms Drive, Brookmans Park, Hatfield AL9 7AF

- 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 & Mrs C Pocock against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2018/2242/FUL, dated 30 August 2018, was refused by notice dated 7 November 2018.
 - The development proposed is the demolition of existing buildings and erection of detached dwelling and two replacement bridges.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Welwyn Hatfield Borough Council Draft Local Plan (the Draft Local Plan) has been published, but examination is ongoing and there is no conclusion as to the Draft Local Plans soundness. As it may be subject to change, it therefore attracts limited weight and I have considered the proposal against the policies of the adopted Development Plan (DP), which included the Welwyn Hatfield District Plan 2005 (WHDP), in force and the National Planning Policy Framework, 2019 (the Framework).
3. Additional plans (Drawing Numbers: 19004-2; 19004-3B; 19004-4; 19004-5; and 19004-6) and related calculations were submitted with the appeal, along with updated documents consisting of an updated Heritage Statement and an updated report on the impact of the development on trees. The additional plans and related calculations detail the design and construction of the bridges, as well as indicate that they would accord with a British Standard. The updated report on the impact of the development on trees takes account of the additional plans and calculations referred to above, whilst the updated Heritage Statement has been undertaken to address the proposal in relation to the Framework, which was published in February 2019.
4. Although no specific consultation on these additional plans, related calculations and updated documents has taken place, the Council did notify interested parties of the appeal. It is clear from representations, received pursuant to the Council's notification of interested parties, that representations on these additional plans, related calculations and updated documents have been received.

5. Bearing in mind the above, and applying the Wheatcroft Principles¹, the additional plan, related calculations and updated documents do not materially alter the nature of this application. Furthermore, as interested parties were notified of the appeal, and consequently the additional plans, related calculations and updated documents, and given suitable time for representations to be made, the interests of interested parties have not been prejudiced. As such I have accepted the additional plans, related calculations and updated documents and have taken them into account in the consideration of this appeal, as they provide sufficient information to enable adequate consideration of replacement bridges and whether or not they are acceptable. As such the third ground of refusal falls away and I have considered this appeal accordingly.
6. Due to inconsistency on the plans there has been uncertainty between the parties as to the locations of the two different proposed bridges. The appellants in their letter dated 11 July 2019 have confirmed that proposed Bridge 2, as detailed on Drawing Number 19004/4, is the bridge that would lie outside the Green Belt, whilst Bridge 1, as detailed on the same drawing, is the bridge that would stand on land within the appellants' ownership. As such Bridge 2 would be sited on land within the ownership of Herts and Middlesex Wildlife Trust (HMWT), whilst Bridge 1 would lie within the Green Belt. I shall consider the appeal on this basis.

Main Issue(s)

7. The main issues are whether:

- The proposal is inappropriate development in the Green Belt;
- Sufficient information was submitted to enable adequate consideration of effects of the development on the Grade II Registered Park and Garden of Gobions (RPG) and, if so, the proposed development's effect in that regard; and
- Any 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

Background

8. The majority of the appeal site lies within the open countryside and designated Green Belt, with only a small section of the access (located between the residential curtilages of Nos 18 and 20 Mymms Drive) situated within the settlement boundary of Brookmans Park, as defined by the DP. The site also adjoins the boundary with the RPG on the southern and western boundaries of the site, which is formed by a post and rail fence.
9. The site is an irregular shaped plot, primarily due to the length of the access track, that crosses two timber sleeper bridges, before arriving at the eastern side of the plot, which is the location of the proposed dwellinghouse. The eastern side of the site currently comprises a number of modestly sized stables

¹ Wheatcroft v SSE & Harborough DC [1982] JPL 37.

and a storage building, which are constructed of both wooden and breeze block under low pitched felt roofs. A typical garden shed is located west of the storage building, whilst on the southern side of the stables is a timber car port type structure. A separate taller, open fronted, detached storage building is located slightly south and west of the car port type structure. This building is clad in corrugated sheeting on the east, south and west facing elevations.

Whether inappropriate development

10. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. Policy GBSP1 of the WHDP requires that the Green Belt is maintained in Welwyn Hatfield as defined in the Proposals Map, whilst policy GBSP2 of the WHDP defines the towns and specify settlements where development will be permitted, subject to other policies of the plan. These policies in the WHDP are dated and not wholly consistent with the Framework. As such I afford policies GBSP1 and GBSP2 of the WHDP limited weight.
11. Paragraph 145 of the Framework advises that the construction of new buildings should be regarded as inappropriate in the Green Belt. However, there are a number of exceptions to this as set out in that paragraph. Additionally, Paragraph 146 of the Framework states, "*Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.*" One such development listed is Engineering Operations and I consider the construction of Bridge 1 should be assessed against this paragraph of the Framework in terms of whether it would amount to inappropriate development or not.
12. Bridge 1 would replace an existing timber sleeper bridge, laid across steel beams, that has wooden guard rails (uprights and handrails) infilled with wooden planks similar to adjoining post and rail fencing. The related calculations attached to the additional plans, referred to in paragraph 3 above, specify that Bridge 1 would be some 5 metres in width and have a span of some 10 metres. It would be constructed from precast concrete planks on galvanised steel beams, surfaced with resin of bound aggregate. The bridge supports are proposed to be reinforced concrete ground beams on piled foundations designed to suit and the guard rails over this bridge (uprights and handrails) would be formed from steel hollow sections with chain link fencing infill between.
13. This bridge would be larger and, due to its proposed materials, design and size, much more prominent than the existing bridge it would replace. I also noted that it would be visible from that part of the access that is within the ownership of the HMWT and used by them as one of the points to gain entry to the Gobions Wood Nature Reserve (GWNr) and consequently also into the RPG. As such proposed Bridge 1 would reduce the openness of the Green Belt such that it would not conform to Framework paragraph 146. From the information before me, I have also found no reason to believe that it would meet any of the criteria of Framework paragraph 145. It would, therefore, amount to inappropriate development in the Green Belt.

14. In terms of the proposed new dwelling, one of the exceptions set out in Paragraph 145 (g) of the Framework is the limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings). This is subject to one of two criteria, the first of which is that it would not have a greater impact on the openness of the Green Belt than the existing development. The other criteria in Paragraph 145 (g) of the Framework is not relevant in this instance as no evidence has been presented that suggests the proposed development would be an affordable housing scheme, which would contribute to an identified affordable housing need within the area of the local planning authority.
15. It is common ground between the Council and appellants that the equestrian use of the site falls within the definition of previously developed land as contained in the Framework. From all I have seen and read I do not disagree with this position.
16. The proposed dwelling would be substantial in size and whilst predominantly single storey, would have a two storey element, which when compared to the existing built form on site to be replaced would be larger and would as a result have a greater impact on openness of the Green Belt than the existing development.
17. The Council and appellants agree that the proposed floorspace of the dwellinghouse would be some 207m², as compared to the existing buildings combined footprint of 153.4m², an increase of some 34%. It is also common ground that the new building would have a volume of 536m³, compared to the combined volume of the existing buildings of 432m³, an increase in volume of some 24%.
18. Notwithstanding the appellants' submissions in this regard, it is clear to me that the proposal would have a greater impact on the openness of the Green Belt than the existing development. This is due not only to the increased footprint and volume of the proposed development as a whole, but also the increased height of the two-storey element, notwithstanding the intention to lower the ground level of this part of the development. The proposed dwelling would be more substantial in terms of its construction and appearance than the existing stables, storage buildings and shed, which are essentially rural in their nature and unobtrusive in the landscape, typical of the sorts of buildings one might expect to find in this kind of rural context.
19. This would be further exacerbated by the domestic use of the development and the related attributes of residential use, such as hardstandings, domestic paraphernalia, Etc. I note the historic and existing use of the site and the fact that the appellants point out that the existing use is unrestricted by planning conditions. I also note the appellants' contention that vehicles coming and going from the site can include bulky horseboxes and trailers, and that these could be housed at the site and that other associated equestrian equipment, such as horse jumps, could be stored in the open on the site. Nonetheless, the storage of equestrian equipment and the parking of vehicles related to equestrian uses at a stables are not uncommon features in the open countryside and are of a wholly different nature than the characteristics of domestic paraphernalia related to a dwellinghouse.

20. I note that it has been suggested that these concerns could be mitigated through the imposition of landscaping conditions and the removal of Permitted Development (PD) rights. However, having given consideration to the removal of PD rights, such as those that allow for additional structures to the dwelling or for the erection of boundary treatments, there would still be associated domestic paraphernalia in the garden areas that could not reasonably be controlled by condition and for the reasons outlined above the proposed built form alone would have a greater effect on openness than the existing development. While landscaping has the potential to help integrate new development into its context and to screen it, it would not alter the fact that the proposed development would be significantly larger than what exists, such that it would not mitigate the loss of openness.
21. For the foregoing reasons, I have no reason to believe that the proposed dwellinghouse would meet the criteria of Framework paragraph 145 (g). Furthermore, from the information before me, I have no reason to believe the proposed development would meet any of the other exceptions set out in Framework paragraphs 145 and 146 and therefore the proposed development would amount to inappropriate development in the Green Belt.
22. As such, for the reasons outlined above regarding the proposed bridge and house within the Green Belt the development at large would be inappropriate development in the terms of the Framework. The proposal would therefore conflict with the Framework and be contrary to Policy GBSP1 of the WHDP, which requires that the Green Belt is maintained in Welwyn Hatfield as defined in the Proposals Map.

Gobions Registered Park and Garden

23. Gobions is a Grade II RPG and is the remains of an 18th Century pleasure grounds laid out by Charles Bridgeman, the royal gardener, in the 1730s. Bridgeman worked under the direction of Queen Caroline (1683-1737) at Hampton Court Palace, Kew Gardens and Kensington Gardens and she is known to have visited Gobions during its formative years, which suggests that it was influential in the development of her ideas.
24. The 18th Century pleasure grounds are surrounded by a landscape park developed during the later 18th Century and early 19th Century. The significance of this RPG lies not only in the designer, Charles Bridgeman, but also in the fact that it was formed prior to 1750, with parts of the original layout still being in evidence. It is also significant in the fact that it was formed in a newly emerging style that became known as the English Landscape Garden Movement and that it was influential in the development of taste.
25. Policy R28 of the WHDP concerns historic parks and gardens. I note from the policy pre-amble that its intention is to seek to preserve their character and setting through the application of the Council's planning powers. However, the policy is written in a negative form and does not conform with current Government policy set out in Section 16 of the Framework. As such I shall afford Policy R28 of the WHDP limited weight.
26. The Framework, Paragraph 184, advises "Heritage assets range from sites and buildings of local historic value to those of the highest significance..." This includes RPGs. This Paragraph of the Framework also advises all designated and non-designated heritage assets are "...an irreplaceable resource, and

should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations."

27. Paragraph 193 of The Framework states: *"When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)..."*
28. I note the appellants' comments in their updated Heritage Statement that concludes that the proposed development would have a neutral impact on the significance of the RPG. However, I also note the appellants' appeal statement, whilst noting their updated Heritage Statement, concludes that *"...if the proposal is considered to result in some harm to the significance of the heritage asset, then that harm is less than substantial and at a low level."*
29. The Hertfordshire Garden Trust (HGT), disagree with the appellants' contention that there would be a neutral effect on the RPG. Indeed, the HGT specifically state that they *"feel that housing with its concomitant gardens, parking etc, and any future PDR [Permitted Development Right] extensions, would contribute an intrusion into this RPG in which views were so historically important."*
30. In addition to the comments of the HGT, the Council considers the impact of the proposed development on the significance of the designated heritage asset amounts to less than substantial harm.
31. As set out above, the majority of the appeal site lies within the open countryside, which adjoins the rear of the residential properties in Mymms Drive, which is characterised by a linear form of development. The rural appearance of the site is in stark contrast to the suburban character of the adjoining linear residential development. Indeed, the appeal site retains its rural feel primarily due to the adjoining land uses to the south and west that have a largely undeveloped nature.
32. I appreciate that the proposed dwellinghouse would not be visible from public vantage points. However, the site access, from Mymms Drive is, in part, within the ownership of the HMWT and is used as a point of entry to the GWNR and consequently also into the RPG. As such part of the access is open to use by the public when accessing the GWNR and RPG.
33. Whilst the dwellinghouse would not be visible from the publicly accessible part of the access track, the proposed bridges would be and the publicly accessible part of the access track does enable an appreciation of the areas rural nature and largely undeveloped paddocks, fields and woodland located to the south and west.
34. Furthermore, the appeal site can be appreciated from the adjoining paddock that, whilst being private, forms part of the designated RPG. As such the appeal development, due to its scale and location, would diminish the current open, undeveloped character of the area and would affect the appreciation, setting and significance of the RPG. Bearing in mind the nature and scale of the development and its impact on the appreciation and setting of the heritage asset, when considered as a whole, I consider that the level of harm would be less than substantial.

35. Accordingly, the appeal development would conflict with Policy R28 of the WHDP, which seeks to preserve the character and setting of historic parks and gardens. It would also be contrary to the objectives of the Framework, which amongst other aims seeks to conserve designated heritage assets in a manner appropriate to their significance.
36. Accordingly, in line with paragraph 196 of the Framework, this harm should be weighed against the public benefits of the proposal. I consider this 'heritage balance' in the Other Considerations section of this decision letter.

Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations?

Other Considerations

37. A number of other considerations have been put forward by the appellants in support of the scheme. These broadly fall under the headings of economic, social and environmental benefits.
38. A social benefit of the proposed development would be a net addition of 1 unit of accommodation, making a small contribution to the supply of housing and the government's aim to significantly boost housing. However, the provision of 1 dwelling would have a negligible impact in this regard. As such, I afford limited weight to this benefit.
39. Economic and social benefits would be provided through construction related employment, and investment in the local economy following occupation of the development. However, the benefits arising from the construction related employment would be modest and short lived and thus a matter of limited weight. The investment in the local economy following occupation of the development would also in my view be a benefit attracting limited weight, as one dwelling would be unlikely to result in more than limited investment in this regard.
40. In terms of environmental benefits, the appellants refer to a sustainable low energy dwelling and the removal of unsightly existing buildings and areas of hardstanding. Whilst I consider a sustainable low energy dwelling would be a benefit, I only afford this limited weight when tempered by my views set out above concerning the development being more substantial in terms of its construction and appearance than the existing stables, storage buildings and shed. The existing buildings on site are essentially rural in their nature and unobtrusive in the landscape and the proposed dwellinghouse would significantly contrast with this. As such I give limited weight to the removal of the existing buildings and areas of hardstanding.
41. In terms of ecology the Ecological Appraisal submitted with the application made various recommendations, as well as indicating that it has identified potential ecological enhancement opportunities. Notwithstanding the appraisals various recommendations, development should in any event contribute to and enhance, the natural environment in order to accord with the Framework (paragraph 170). Whilst ecological enhancement opportunities would be a benefit, it is a requirement for development to be considered acceptable. As I have nothing before me to suggest that the gain to be provided by this development would be substantial, I give this matter limited weight.

42. Turning to heritage issues, the approach in the Framework is that where the harm to the significance of a designated heritage asset is less than substantial, as in this case, it should be weighed against the public benefits of the proposal. Other than the benefits I have outlined above, the appellants have not identified any public benefits specifically in regard to the RPG or its setting. As such against all the public benefits I have outlined above, is the harm I have identified to the RPG. It is clear from paragraph 193 of the Framework that great weight should be given to a heritage asset's conservation, the more important the asset the greater the weight should be. I consider that the public benefits set out above do not individually or cumulatively outweigh the identified harm. I deal with these identified benefits in respect to whether Very Special Circumstances exist in terms of Green Belt policy as part of my Conclusion section below.
43. I note that the appellants have indicated that they are close to reaching agreement with the HMWT regarding the replacement of bridge 2. I also note that a revised application has been submitted to the Local Planning Authority, along with a copy of a draft of the Heads of Terms for a Deed of Easement. Limited specific evidence in regard to these matters have been provided and in any case, I am required to determine the appeal as currently before me. However, none of these matters would outweigh the harm I have identified above.

Conclusion

44. I have found that the proposed development amounts to inappropriate development in the Green Belt and would cause harm to openness. It would also conflict with more than one of the purposes of the Green Belt, including preventing encroachment into the countryside. The effect on openness and the effect of encroachment are further Green Belt harms in addition to the definitional harm of inappropriateness.
45. National policy is clear, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. 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, is clearly outweighed by other considerations.
46. I have found less than substantial harm to the significance of the RPG and that this heritage harm is not outweighed by the public benefits of the scheme. I have afforded limited weight to the social, economic and environmental benefits identified, including the provision of a single dwelling. Even when taking these matters cumulatively, they do not clearly outweigh the totality of harm to the Green Belt and other harm.
47. As such very special circumstances to justify inappropriate development do not exist.
48. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found conflict with saved policies GBSP1 and R28 of the WHDP and therefore consider that the proposal conflicts with the development plan as a whole.

49. The development is therefore unacceptable for the reasons set out above and accordingly the appeal should be dismissed.

Christopher Butler

INSPECTOR