



Appeal Decision

Site visit made on 12 October 2020

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2020

Appeal Ref: APP/N1920/W/20/3255347

**Land adjacent to Heathbourne Cottage, Heathbourne Road,
Bushey Heath WD23 1PA**

- 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 Richard Werth against the decision of Hertsmere Borough Council.
 - The application Ref 20/0142/FUL, dated 31 January 2020, was refused by notice dated 21 April 2020.
 - The development proposed is the erection of a detached 5-bed dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development has changed from the application form. I have used the description of development contained on the Council's decision notice in the banner heading above.
3. When I arrived at the site as arranged, I was unable to gain access to it. However, I was able to view the appeal site, and appreciate its topography and position within the landscape, from the adjacent highway verge. Together with the submitted evidence, this is sufficient for me to be able to determine the appeal, given the matters of dispute between the parties.

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 2019 (the Framework) and development plan policy
 - The effect of the proposal on the openness of the Green Belt
 - The effect of the proposal on the character and appearance of the area, including with regard to nearby trees
 - If the proposal were to be inappropriate development, 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 development.

Reasons

Inappropriate Development in the Green Belt

5. Policy CS13 (The Green Belt) of the Hertsmere Local Plan Core Strategy 2013 (CS) is generally consistent with the Framework with regard to the appeal development and so I give it substantial weight.
6. Policy SADM26 (Development Standards in the Green Belt) of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan 2016 (SADMPP) includes matters that are not wholly consistent with the Framework with respect to the appeal development and so I give it only limited weight.
7. Policy SP1 (creating sustainable development) of the CS is largely inconsistent with the Framework in terms of inappropriate development in the Green Belt. Consequently, I give Policy SP1 very limited weight in this regard.
8. Policies CS22 (Securing a High Quality and accessible Environment) of the CS and SADM30 (Design Principles) of the SADMPP are not relevant to the assessment of whether the proposal would be inappropriate development in the Green Belt. Therefore, I have not had regard to them, in this respect.
9. I give substantial weight to the Framework as a material consideration in determining this appeal.
10. The proposal would be located on the eastern side of the settlement of Bushey Heath, which forms part of a larger contiguous suburban area. It is not disputed that the proposed development would be located in the Green Belt, where the construction of new buildings should be regarded as inappropriate development, subject to a limited number of exceptions¹.
11. In their Statement of Case², the appellant makes no reference to the proposal meeting any of the specified exceptions listed under paragraph 145 of the Framework. Instead, the appellant has assessed whether the area of Green Belt containing the appeal site would fulfil the functions of such land, as set out at paragraph 134 of the Framework. Such an assessment has no bearing on whether the proposal would be inappropriate development in the Green Belt.
12. I am satisfied from the evidence and my observations on site that none of the exceptions listed under paragraph 145 of the Framework would apply in this case.
13. For these reasons, the proposal would be inappropriate development in the Green Belt. It would, therefore, conflict with Policies CS13 and SP1 of the CS and with Policy SADM26 of the SADMPP, and with the Framework in this regard.

Openness of the Green Belt

14. Openness is one of the essential characteristics of the Green Belt³. The appeal site is predominantly open grassland, with a small, single-storey, timber stable (which would be removed as part of the proposal) and a short concrete access drive in its southwestern part, near to Heathbourne Cottage.

¹ Paragraph 145 of the Framework.

² Including at Section 6.0 Grounds for Appeal where the Council's reasons for refusal are addressed.

³ Paragraph 133 of the Framework.

15. The proposed development would entail the erection of a T-shaped, 5-bedroom detached dwelling, with integral garage and a driveway, set within landscaped grounds. The dwelling would provide some 418m² of floorspace over two levels, with the ground floor larger than the first floor. It would have a contemporary appearance incorporating shallow, mono-pitched roofs, timber cladding, and a substantial amount of glazing.
16. The design, scale, and massing of the proposed dwelling, together with the increased associated hard surfaced areas, would cause substantial spatial harm to the openness of the Green Belt in this area.
17. The timber fence by Heathbourne Road, together with the design and setback position of the proposed dwelling and the sloping topography of the site, would reduce its visibility somewhat in views from the west. Two oak trees are also proposed to be planted by the western boundary, near to an existing semi-mature Sycamore tree, with two Scots Pine trees proposed to the east.
18. However, I am satisfied that the proposed dwelling would still be visible from Heathbourne Road, and in winter in views from Stanmore Common Local Nature Reserve, to the east.
19. Consequently, the design, scale, and massing of the proposed dwelling would cause visual harm to the openness of the Green Belt. Whilst this would be more limited than the spatial harm identified above, it would still be significant.
20. For these reasons the proposal would adversely affect the openness of the Green Belt and would, therefore, conflict with Policy CS13 of the CS and with Policy SADM26 of the SADMPP, and with the Framework in this regard.

Character and Appearance

21. The appeal development is a revised proposal following the Council's refusal to grant planning permission for a 4-bedroom house in October 2019⁴. Very little information regarding this earlier scheme has been provided as evidence.
22. Nevertheless, I note the appellant's views as to how the appeal proposal has responded to the previous refusal, including the reduced size of the site, with the dwelling positioned closer to Heathbourne Road, so as to encroach less into the local wildlife corridor next to Stanmore Common. The appellant also makes reference to a reduced size and profile of the appeal dwelling which is said to blend into the topography of the land and so reduce its visual impact.
23. This part of Heathbourne Road has a mixed, predominantly residential character, and contains a number of substantial, detached dwellings set within large, maturely landscaped gardens on the eastern side of the road. The area contains a significant number of mature trees and hedges, which gives it a pleasant and verdant character.
24. The proposal would fill the gap between two residential properties on the eastern side of Heathbourne Road, where there is a linear pattern of development. As such the proposed dwelling would not be out of keeping with the predominantly residential character of the area or its linear form.

⁴ LPA Ref. 19/1277/FUL

25. However, the appeal site, whilst fenced from the road, does afford views through to the trees that bound it to the north, and to the woodland at Stanmore Common to the east. The scale and massing of the proposed dwelling, whilst set back from Heathbourne Road and at a lower elevation, means it would still be visible and would detract from these views to an extent, adversely affecting the character and appearance of the area somewhat.
26. At the time that the Council refused planning permission it was concerned about the impact of the proposal on trees, which benefit the character and appearance of the area. Little evidence regarding the impact of the proposal on trees was provided with the planning application. The Council's third reason for refusal consequently addressed their concerns in this regard.
27. As part of the appeal process the appellant commissioned an Arboricultural Impact Assessment⁵ (AIA), which includes an Arboricultural Method Statement (AMS) and details for the protection of trees on the site.
28. With reference to *The Procedural Guide Planning Appeals – England, July 2020* it is unclear why the Council has not assessed the AIA along with the other evidence submitted by the appellant. I find the Council's position in this regard to be obstructive and unreasonable. However, it is not clear that the appellant has incurred unnecessary expense as a result, such as to warrant an award of costs, and no such costs application has been made.
29. I have assessed the AIA in determining this appeal and I note that an Ash tree (T11) along the northern boundary of the appeal site, would be removed as part of the proposal. The AIA identifies it as a *Significant boundary tree*, some 17 metres in height and at the *Early Mature* stage of its life.
30. Other than its close proximity to construction activity for the proposed dwelling, little explanation for why this tree would need to be removed is contained in the AIA. Its root protection area would not be affected by the proposed dwelling and its crown, whilst close to the proposed building would be separate from it⁶.
31. This tree, whilst not statutorily protected, makes a positive contribution to the character and appearance of the appeal site and the wider area and is likely to have a significant number of years of life remaining. From the submitted evidence I am not satisfied that the removal of this tree would be necessary for the proposed development to proceed.
32. Whilst a replacement tree would be planted in its place, it would be of a different and less statuesque species⁷ and would be of a significantly smaller size⁸. It would therefore take a considerable time to reach a similar height to tree T11 and even then, would make a lesser contribution to the character and appearance of the area.
33. The proposed development would detract from the views of the trees to the north of the site and of Stanmore Common to the east. Together with the

⁵ Ref. 101 501 and dated 29 June 2020.

⁶ Paragraph 6.4.2.1 of the AIA

⁷ Silver Birch

⁸ AMS part 8.

removal of Tree T11 this would adversely affect the character and appearance of the area to an extent, and particularly in the short term.

34. However, the proposed dwelling would not be out of keeping with the largely residential character of the area or the local pattern of development. Moreover, further tree planting around the boundaries of the site is proposed with a variety of species and of a similar size to the replacement for tree T11.
35. On balance, I am satisfied that the proposal would not adversely affect the character and appearance of the area. It would, therefore, accord with Policies SP1 and CS22 of the CS, Policies SADM11 (Landscape Character), SADM12 (Trees, Landscaping and Development), and, SADM30 of the SADMPP, and with the Framework, in this regard.

Other Considerations

36. The appeal development is a revised scheme that is said to be of a smaller scale, with less impact on the character and appearance of the area, the openness of the Green Belt or the nearby local wildlife corridor, than the previous proposal on the site. The appeal proposal is also said to compare favourably with the nearby development at Birchville Court in this regard.
37. However, from the limited evidence, it is not possible for me to reach an overall conclusion that the appeal proposal would be significantly better than the previous scheme that was refused planning permission. Furthermore, its different location and context means that it would not be comparable to the scheme at Birchville Court.
38. In any event, even if I were to conclude that the appeal proposal was better than these other schemes this would not address the harm that I have identified, as set out above.
39. Reference is made to a 2016 planning permission, which involved 'the demolition of stables, erection of two-storey detached ancillary outbuilding to comprise a garage on ground floor and habitable rooms on first floor'. This proposal is not listed in the planning history of the site and no substantive details of it have been provided. Consequently, I cannot have regard to it.
40. There are many aspects of the proposal that are not disputed, including the living conditions of future and nearby occupiers, car parking standards and Highways impacts. These are matters that would need to be satisfactorily addressed in any development proposal, and whilst they would not harm the Green Belt, they would be neutral factors that do not weigh for or against the proposal.
41. Whilst the design of the proposed dwelling would be acceptable in terms of the character and appearance of the area, I do not consider it to be outstanding or innovative⁹. However, the incorporation of various sustainable features¹⁰ into the design of the proposed dwelling would limit its carbon-emissions, and so I give weight to this in my decision.
42. I also note the net increase in tree planting and further opportunities to support biodiversity. However, many of these opportunities are proposed on

⁹ With reference to paragraph 131 of the Framework.

¹⁰ Including a geothermal heating system, solar panels and a Brise Soleil system.

land outside and some distance from the appeal site¹¹. Furthermore, they should be considered against the encroachment of the proposal into a local wildlife corridor and the loss of a substantial tree within the site. As such, I afford these environmental benefits only limited weight.

43. The appellant makes reference to the changing character of the area since a proposal for one detached house on the land adjacent to Heathbourne Cottage was dismissed at appeal¹² in 2005; that parcels of land that were previously in the Green Belt, on the opposite side of Heathbourne Road to the appeal site, have been removed; and, that significant housing developments are taking place nearby, with further land safeguarded for future housing. Reference is also made to a report¹³ commissioned by the Council which is said to conclude that the Green Belt in this area is not meeting the five purposes specified at paragraph 134 of the Framework.
44. The specified land¹⁴, the character and function of which has changed, is on the opposite side of the road to the appeal site and so visually and physically separate from it. I also note the Council's comments on the report, which it states show that the land including the appeal site would meet four of the five purposes for Green Belt land. The referenced report is not in the evidence before me and so I can have no regard to its content.
45. The appeal site is within the Green Belt and from the submitted evidence and my observations on site, I am satisfied that it would fulfil more than one of the specified purposes for Green Belt land contained in the Framework. I therefore give these matters raised by the appellant very limited weight.

Conclusion

46. The proposal would not adversely affect the character and appearance of the area. However, it would be inappropriate development in the Green Belt and would be harmful to its openness.
47. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Any harm to the Green Belt should be given substantial weight.
48. The other considerations put forward in this case do not clearly outweigh the totality of the harm that I have identified, bearing in mind the great importance the Government attaches to the Green Belt.
49. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would, therefore, conflict with Policies SP1 and CS13 of the CS and with Policy SADM26 of the SADMPP, and with the Framework.
50. For the reasons given above and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR

¹¹ Appendix F of the Preliminary Ecological Assessment.

¹² Ref. APP/N1920/A/05/1179389

¹³ Hertsmeere Green Belt Assessment Stage 2 Final Report – Rev C dated 5 March 2019

¹⁴ Spire Hospital site; Birchville Court; and, land bounded by Clay lane, Heathbourne Road and Windmill Lane.