



Appeal Decision

Site visit made on 26 January 2021

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021

Appeal Ref: APP/B1930/W/20/3257368

Site at Cromwell Piggeries, Marshalls Heath Lane, Wheathampstead

- 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 Russell Kitching against the decision of St Albans City & District Council.
 - The application Ref: 5/20/0637, dated 10 March 2020, was refused by notice dated 17 July 2020.
 - The development proposed is demolition of existing dwellings and construction of five detached dwellings with associated landscaping, parking, cycle and bin storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would be inappropriate development in the Green Belt;
 - The effect the development would have on the openness of the Green Belt; and,
 - If the development is inappropriate, whether the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify development.

Reasons

Whether the development would be inappropriate

3. Policy 1 of the St Alban's District Local Plan Review 1994, despite its age, is broadly compliant with the National Planning Policy Framework, (the Framework) in seeking the prevention of urban sprawl in the Green Belt. However, it does not identify all the exceptions which could allow development which are included in Paragraphs 145 and 146 of the Framework. For this reason, I consider that the Framework provides a more up to date set of policy tests against which the proposal should be assessed.
4. The appeal site comprises 0.69ha on a site which forms part of the Green Belt. The site includes derelict agricultural buildings which occupy the northern half of the site with an area of hardstanding and a free-standing mobile home

located just to the south. The site includes part of the field which surrounds the site to the west and south.

5. The proposed housing would comprise single storey dwellings and garages set in modest sized gardens and served by an internal access road leading from the existing access from Marshalls Heath Lane. The proposed development would occupy around 80% of the appeal site with the remaining area being retained for use as an infiltration basin.
6. The proposed development is not included in any of the exceptions included in Paragraphs 145 and 146 of the Framework. Accordingly, it would be inappropriate development in the Green Belt as defined by the Framework. Paragraph 143 states that such development is, by definition, harmful to the Green Belt.

Effect on openness

7. The main difference between the parties is the degree of harm arising from the impact of the appeal scheme on openness. The proposed development would extend over land which is not currently occupied by development. In particular, part of Building 4 and the whole of Building 5 would extend across the central and southern parts of the site. For this reason, the appeal scheme would impact on the site's openness.

Other considerations

8. The appeal site has the benefit of a Class Q¹ approval for the conversion of the existing buildings into 5 dwellings, (the approved scheme). Accordingly, this approved development would be confined to the northern part of the appeal site. This scheme represents a 'fallback position' which is a material factor in the determination of this appeal.
9. Figures submitted by the appellant indicate that the appeal scheme would not have a larger footprint but would be marginally higher in volume than the extant approval under Class Q. Whilst the comparative sizes of both footprints and volumes cancel each other out, the approved scheme would be within a building type appropriate for the Green Belt which would not impact on openness when compared to the proposed scheme.
10. I do not regard the appellants comparison with the existing development as valid, as these are agricultural buildings which fall within an exception to Green Belt policy and for this reason do not impact on openness.
11. Furthermore, the appeal scheme is markedly different from the approved scheme in that it would extend across the whole of the site. Whilst this area is occupied partly by hardstanding and the mobile home the proposed scheme would have a far greater impact on the site's openness than the approved scheme. The extension of development into this part of the site would adversely impact on its openness. i
12. The appellant cites other considerations to be taken into account as justifying why an exception to the Framework policies should be made. These include improvements to visual amenity through the creation of 5 new dwellings given

¹ The Town and Country Planning (General Development Order) (England) Order 2015 as amended allows approval of certain types of development subject to conditions. Schedule 2 Class Q allows the conversion of building from agricultural use to residential use subject to conditions.

the existing poor state of the site, economic benefits derived from construction and a positive contribution to housing supply given the shortfall in supply.

13. Given the size of the scheme these matters would be of a modest scale and whilst they could be delivered through this scheme it is also true of the scheme approved under Class Q, which would be more appropriate in character and appearance terms, and would have less impact on openness.
14. Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted, where the development plan is absent, silent or relevant policies are out-of-date, unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. Green Belt is one such area or asset and, given I have found very special circumstances do not exist, the tilted balance does not apply in this case.
15. The appellant's statement that the appeal scheme would improve the site's ecology is not adequately evidenced by the preliminary findings of the Phase 1 survey of the site² which advocates for more detailed studies in respect of bats and barn owls.
16. I do not regard these other considerations as outweighing the harm which would result to the Green Belt from the appeal scheme.

Conclusions

17. Underpinning the purpose of Green Belts is a need to resist urban sprawl; their essential characteristics are their permanence and openness. Whilst the appeal scheme would only result in moderate harm to openness, it would be contrary to Section 13 of the Framework and Policy 1 of the St Alban's District Local Plan Review 1994, which includes a presumption against new development in the Green Belt.
18. For the above reasons I find that the other considerations in this case do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Stephen Wilkinson

INSPECTOR

² Preliminary Eco-survey