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# 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: 24 March 2021**

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## **Appeal A Ref: APP/C1950/W/20/3256217**

### **45 Dixons Hill Close, Welham Green, Hatfield, AL9 7EF**

- 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 Tyrone Agius against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2019/3168/FULL, dated 16 December 2019, was refused by notice dated 15 May 2020.
  - The development proposed is conversion of existing stables into a residential dwelling.
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## **Appeal B Ref: APP/C1950/W/20/3260000**

### **45 Dixons Hill Close, Welham Green, Hatfield, AL9 7EF**

- 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 Tyrone Agius against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2020/1817/FULL, dated 18 June 2020, was refused by notice dated 17 September 2020.
  - The development proposed is conversion of existing stables into a residential dwelling.
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## **Decisions**

1. Appeal A is dismissed.
2. Appeal B is dismissed.

## **Application for costs**

3. An application seeking a full award of costs against the Council has been submitted by the appellant in respect of Appeal B. This application is the subject of a separate letter.

## **Procedural Matters**

4. I have referred to the different cases as Appeals A and B in this decision letter as set out in the banner headings. I have dealt with each appeal on its respective merits, but to avoid duplication, I have considered the proposals together in this decision.
5. The appellant submitted with Appeal A a Bat Emergence Survey in respect of the Council's second reason for refusal. As no other parties were affected by this issue I have accepted this and address this later in this decision.

6. For the avoidance of doubt, I have determined Appeal A on the basis of the Site and Location Plan DHC45-1 and Appeal B on the basis of DHC45-3 Rev A.
7. The draft Welwyn Hatfield Local Plan 2016 is still at a relatively early stage of preparation. Accordingly, its policies have only limited weight.

### **Main Issues**

8. The following are issues common to each appeal:
  - Whether the proposal would constitute inappropriate development in the Green Belt, including 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 the development.
9. In respect of Appeal A there is an additional issue:
  - The effect of the proposal on protected species

### **Reasons**

#### **Appeals A and B**

10. The National Planning Policy Framework, (the Framework) identifies the protection of the Green Belt as a core planning principle. It identifies that one of the fundamental aims of the Green Belt is to keep land permanently open, and openness is one of its essential characteristics. Moreover, checking the unrestricted sprawl of large built-up areas and safeguarding the countryside from encroachment are among the 5 purposes it says the Green Belt serves. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
11. Council Policies H2, RA10, RA17, D1 and D2 of the Welwyn Hatfield District Plan 2005, the Welwyn Hatfield Supplementary Design Guidance 2005, Policies SADM1, SP9 and SPMD34 of the Welwyn Hatfield Draft Local Plan 2016 are consistent with the Framework in identifying exceptions to the presumption against new development in the Green Belt.
12. Paragraph 146 of the Framework, identifies that certain forms of development are not inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Paragraph 146d) allows the reuse of buildings provided that they are of permanent and substantial construction.
13. The appeal site comprises a small stable building lying to the rear of 145 Dixons Hill Close. The stables sit in a small paddock on the brow of a hill, beyond the rear building line of the Dixon Close properties. An access to the site is currently directly from Dixon Hill Close although both appeals include access taken from that serving the neighbouring property. There are a series of small outbuildings at the rear of the site and an area of hardstanding to the front leading to a five bar gate and the access point. The site is clearly visible from Dixons Hill Close.

14. The stables are constructed with a concrete base, brick plinth with breeze block walls with external timber cladding. Its wooden roof is covered with tarpaulin. A shallow area of hardstanding surrounds the property. Both parties accept that the building is of permanent and substantial construction. Having inspected the building, I have no reason to take a contrary view on this issue.

*Whether the development would be inappropriate*

15. The crux of this matter is whether the proposed scheme and the residential use of the land around the stable building would preserve the openness of the Green Belt.

**Appeal A**

16. The proposed scheme would have an adverse impact on the openness of the site for the following reasons.
17. The site area would be enlarged to include a paddock to the east of the appeal site. This would create a very large rear garden for the proposed dwelling. The usual domestic paraphernalia associated with the domestic use of a residential property would extend across this whole area visible from Dixon Hill Close. This would represent a significant encroachment into the Green Belt.
18. Although the appellant indicates that the impact of these changes could be reduced through the design of boundary treatment which could include hedgerow and fencing, the domestic character of a new fence would be highly visible and screening vegetation would take time to grow.
19. Whilst the existing building includes doors to the front and rear with 'openings' in each of the flank elevations, the proposed scheme would substantially alter their positions and size when compared to the existing building. Furthermore, small skylights would be located on each roof plane. The proposed openings would be particularly noticeable in the rear elevation with 2 sets of full height patio style doors. The extent of these changes would in themselves significantly alter the character of this building. These changes would further erode openness.
20. Whilst the use of the building as stables in the evening may have led to some light spillage, the proposed changes to the windows and doors would significantly increase this. The proposed use would introduce a 24/7 presence on this site which would be more injurious to openness than visits required for its use as 5 stables.
21. Although the stable building represents previously developed land, the description of the whole appeal site, beyond the paddock in which the building is situated, cannot be described as such. Even if this was the case, Green Belt designation requires considerations on the impact of new development proposals on openness. This is a distinct test irrespective of a proposal being located within previously developed land.
22. Both parties agree that the proposed scheme would involve a reduction in the areas of hardstanding to the front of the site from those agreed as part of the original planning permission for stables. The scheme would include removal of the outbuildings to the rear and side. However, whilst these changes would reduce the impact of the appeal scheme on openness they do not sufficiently

mitigate for the harm to openness which would derive from the use of such a large area for domestic use.

23. Accordingly, I find that the proposals would result in harm by reason of inappropriateness and harm to openness. For this reason the proposal would conflict with Policies H2, RA10, RA17, D1 and D2 of the Welwyn Hatfield District Plan 2005, the Welwyn Hatfield Supplementary Design Guidance 2005, Policies SADM1, SP9 and SPMD34 of the Welwyn Hatfield Draft Local Plan 2016 and Chapter 13 of the Framework.

#### *Very special circumstances*

24. The appellant has identified several reasons why very special circumstances exist to justify the appeal scheme.
25. Both parties acknowledge that the Council has an undersupply of housing and that the proposals could partly address this. However, Paragraph 11d)i, Footnote 6, disengages the 'tilted balance' in these circumstances in support of policies which protect areas of particular importance. These areas include the Green Belt and for the reasons stated above, I find that that harm would arise from the location of this proposal in the Green Belt.
26. I acknowledge that the appeal site is located close to the centre of Welham Green and that this would allow access to services within the centre by a choice of transport modes. However, this has to be set against the other matters which I have identified.
27. 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 development do not exist.

#### *Protected species*

28. The application was initially accompanied by a Preliminary Bat Roost Assessment which although finding no evidence of bats did identify potential roost features.
29. The appellant submitted a Dusk Emergence Survey with the appeal to address comments from the County Ecologist made in respect of the application. The survey identifies that no bats were found on the appeal site. I am satisfied that this addresses the Council's concerns and that this protected species is not present at the appeal site.
30. In the absence of any detailed survey evidence pointing to the presence of bats, I am satisfied that the proposals would not conflict with Policies R11 and RA17 of the Welwyn Hatfield District Plan 2005 and Policies SADM1, SP9 and SADM34 of the Welwyn Hatfield Local Plan 2016.

### **Conclusions**

31. The determining issue in this appeal is the impact of the proposal on the Green Belt. For the above reasons the appeal is dismissed.

### **Appeal B**

*Whether the development would be inappropriate*

32. The proposed scheme includes a series of changes from that included in Appeal A.
33. The appeal site area comprises the paddock which surrounds the stable building; the proposal would be contained within previously developed land. Proposed openings would include just a door of similar size to the existing albeit with the addition of a glazed panel in the front elevation.
34. The rear elevation would have a door of similar design to that existing but with windows either side. Although the position of the windows in both flanks differs from that of the existing building they are of modest proportions and in keeping with those of the existing building. The scheme includes a proposed reduction in the area of hardstanding and removal of outbuildings at the rear and side of the stables.
35. The use of this site as a dwelling would introduce a 24/7 presence on this site. This would be more injurious to openness than the use of the site for stables. I acknowledge that there may be several car trips per day from the existing use, as owners bring feed and take their horses out for exercise. However, this would be less intensive than the regular pattern of vehicular movements at the site resulting from the normal activities associated with its use as a residential dwelling. Cars would be parked overnight at the proposed use. The requirement for 3 parking spaces within the scheme is telling in this regard.
36. Whilst the use of the building as stables in the evening may have led to some light spillage and activity through the visits of owners or vets, the extent of light spillage and likelihood of evening activities, especially in the summer months, would be significantly more than with the current proposal.
37. The site is prominent when viewed from Dixons Hill Close and the spread of domestic paraphernalia across the site would be apparent. Whilst some form of boundary treatment could be used to shield the garden from public view this would have to be of such a design that would serve only to reinforce the domestic nature of the property. This would itself be at variance with the openness of the site. Boundary treatment such as a hedgerow would take time to grow. I do not consider that a condition designed to control the spread of domestic paraphernalia could meet the tests required by Planning Policy Guidance.
38. Whilst the appellant has drawn my attention to the housing allocations included in the emerging plan they do not include the appeal site and serve only to demonstrate the importance of protecting sites the Green Belt from development which would affect its openness.
39. I acknowledge that the issues involved in this appeal are finely balanced. However, for the above reasons the appeal scheme would be inappropriate development within the Green Belt for the purposes of the Framework. The proposal would conflict with Policies H2, RA10, RA17, D1 and D2 of the Welwyn Hatfield District Plan 2005, the Welwyn Hatfield Supplementary Design Guidance 2005, Policies SADM1, SP9 and SPMD34 of the Welwyn Hatfield Draft Local Plan 2016.

*Whether very special circumstances exist*

40. The appellant has identified several reasons why very special circumstances exist to justify the appeal scheme.

41. Both parties acknowledge that the Council has an under supply of housing and that the proposals could partly address this. However, Paragraph 11d)i, Footnote 6, disengages the 'tilted balance' in these circumstances in support of policies which protect areas of particular importance. These areas include the Green Belt and for the reasons stated above I find that harm would arise from the use of this site as a dwelling given its location in the Green Belt.
42. I acknowledge that the site is located close to the centre of Welham Green and that this would allow access to services within the centre by a choice of transport modes. However, this benefit of the site's location has to be set against the other matters which I have identified.
43. 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 development do not exist.

### **Conclusions**

44. For the above reasons the appeal is dismissed.

*Stephen Wilkinson,*

INSPECTOR

