
Appeal Decision

Site visit made on 15 March 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/C1950/W/20/3261984

Tylersley Farm, Tylers Causeway, Newgate Street, Hertford SG13 8QN

- 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 Brian Comer against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/1619/FULL, dated 6 July 2020, was refused by notice dated 1 September 2020.
 - The development proposed is described as demolition of existing buildings comprising bungalow, detached garage and stable and dog kennel buildings. Erection of three new dwellings and associated garages. Landscape enhancements including new woodland planting and improvements to public footpath.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's emerging Local Plan has been submitted for examination. However, no indication of the progress of the examination or timescale for adoption of the emerging plan has been provided. Accordingly, only limited weight can be accorded to its policies.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework,
 - Whether the site accords with relevant local policies regarding location,
 - The effect on the character and appearance of the area; 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

Whether inappropriate development

4. Paragraph 145(g) of the National Planning Policy Framework (the Framework) states that the redevelopment of previously developed land which would not

have a greater impact on the openness of the Green Belt than the existing development is not inappropriate development in the Green Belt.

5. The paddock has not been built on, but it has been used in association with the stables and dwelling for recreational purposes. While the paddock is surrounded with fencing, this is typical for such land due to the need to secure any animals kept within it. It does not result in the paddock being functionally separated from the buildings, especially as it lies between the bungalow and stables and is close to both buildings. The site, taken as a whole, is therefore previously developed land for the purposes of paragraph 145(g). It is therefore necessary to determine whether the redevelopment would have a greater impact on the openness of the Green Belt than the existing development. Openness can have both a visual and spatial quality, and therefore any assessment must consider both the visual impact of the redevelopment and the impact on the open character of the site.
6. The site currently comprises a single bungalow and garage, with a stables and dog kennel. These buildings are all a single storey in height, with flat or shallow pitched roofs, and are sited on opposite sides of the paddock. The proposal would result in a more concentrated form of development with the three houses and their gardens clustered together, and the total residential curtilage smaller than that associated with the single existing dwelling. New planting and mounding would provide some screening of the houses from the surrounding area, including from the public right of way (the PROW) and the extent of hardstanding within the site would be reduced. Certificates of Lawfulness granted for extensions to, and outbuildings within the grounds of, the bungalow confirm that it could be significantly enlarged without requiring planning permission. This fallback position is a material consideration that attracts weight in the determination of this appeal as the footprint of the buildings resulting from the redevelopment would be smaller than the existing plus the lawful extensions and outbuildings.
7. Nonetheless, the three proposed houses would each have first-floor elements of varying scales, with House C in particular having a first floor across much of its footprint. They would be much larger than the existing bungalow and other single-storey buildings on the site. Even allowing for the reduced footprint of development when considering the Permitted Development fallback position, the redevelopment would result in a cluster of taller buildings in the middle of the site.
8. The bungalow could potentially be extended to include a first floor, which at maximum height might be taller than any of the proposed dwellings. However, this has not been formally tested through an application. Even if such a development were to occur, it would only affect the bungalow and not any other building on site, existing or proposed. It therefore only attracts moderate weight in determining this appeal.
9. The assessment of whether the redevelopment would have a greater impact on Green Belt openness is necessarily a matter of planning judgment. Due to their height and the collective massing arising from their concentrated siting the new houses would be prominent features on the site, more visible from the PROW and in longer views from the south, even with established landscaping in place and the other considerations set out above.

10. Whereas the existing buildings are separated across the site allowing clear views across the paddock, the proposed houses and garages would be a focal point due to their height, appearance, and the overall scale of development. In this instance, three large detached houses with garages within close proximity of one another would have a greater impact on the open character of the site. The development would therefore result in an overall greater impact on openness than the existing development so would fail to meet the criteria of paragraph 145(g).
11. Paragraph 145(d) of the Framework states that the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is not inappropriate development. In this instance, only the bungalow and garage are in residential use. The bungalow could be extended, and a replacement garage and new outbuilding erected within its curtilage under its Permitted Development rights. This is a material consideration that attracts weight in the determination of this appeal.
12. The volume of the extended bungalow and outbuildings would be around 2,700 cubic metres, with the bungalow the tallest of the buildings at a maximum height of 4.2 metres. The volume of the proposed houses and garages would be around 3,200 cubic metres, with House C having a maximum height of 5.9 metres. While the footprint of the buildings would be comparable and the internal floor area of the proposed houses would be smaller, overall the replacement buildings would be materially larger in height and volume than those being replaced.
13. While Permitted Development rights do exist to increase the height of the bungalow, the extent of this has not been tested by a formal application. The increased height would in any case only apply to the bungalow and not any of the other existing and lawful buildings. This consideration therefore only attracts limited weight, and it does not show that the replacement buildings would not be materially larger than those they would replace. The development would therefore also fail to meet the criteria of paragraph 145(d).
14. The appeal proposal would therefore be inappropriate development in the Green Belt, contrary to the objectives of the Framework.

Location

15. Policies SD1, H1, H2, D5, GBSP1 and GBSP2 of the Welwyn Hatfield District Plan 2005 (the DP) collectively require, amongst other criteria, that applications for windfall residential development be assessed against the location and accessibility of the site to services and facilities by transport modes other than the car, and that development will mainly be concentrated in the towns of Welwyn Garden City and Hatfield.
16. The site is 1.5 kilometres from Newgate Street village and 2 kilometres from Little Berkhamsted, the nearest identified settlements. Between them these settlements have pubs, churches and village halls, but only a single primary school, one convenience store and a post office that is open two mornings a week. This is a limited range of services, and reliant on the use of public footpaths for pedestrian access as the most direct routes with sections along roads without footways. There are bus stops around 750 metres from the site providing daily services to Hertford and Cuffley, which are larger settlements with a wider range of services. However, reaching these bus stops involves

walking along public footpaths and Tylers Causeway which has no footway on either side. These are therefore unlikely to be attractive options in times of inclement weather or for those with limited mobility or who have young children.

17. It is therefore probable that most journeys from the site will occur using private transport. While the development would provide cycle storage and be close to established cycling trails, most journeys are likely to occur by car given the distances to the nearest services and facilities.
18. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Nonetheless, it also states that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. While the site has an existing residential use, the development would result in three houses, each larger than the existing bungalow and therefore an increased volume of traffic arising from the development.
19. Each house would include space to allow for home working, which has become increasingly common considering the ongoing pandemic. Delivery services may reduce the need for travel by future occupiers, but this must be balanced against the traffic generated in turn by the deliveries. These are considerations that weigh in favour of the development but are not sufficient to outweigh the harm arising from its location remote from services and facilities.
20. My attention has been drawn to residential developments in the nearby area for which the Council has granted planning permission without raising concerns regarding the distance to facilities. However, I do not have the full details of those developments before me, including how accessible those sites are in comparison to the appeal site regarding services and facilities. In any event, each case must be assessed on its own merits, and in this instance the site offers limited access to meet the day-to-day needs of future occupants.
21. The site does not therefore accord with relevant local policies regarding location.

Character and Appearance

22. The development would remove the existing buildings from the site. These buildings are of no architectural interest but appear broadly typical of rural development and are not harmful to the rural character of the area. The proposed development would, due to the uniform materials, height of the proposed buildings and extent of glazing appear as a purpose-built residential development rather than the conversion of an existing group of buildings such as may be expected on a rural site. However, the use of timber cladding and clay tiles would make the new buildings appear more sympathetic to the rural character of the area.
23. Views of the development would typically be from longer distances, with the closest viewpoints along the PROW. The site would benefit from screening from landscaping and due to the existing site topography and proposed mounding the houses would not be prominent in views from Tylers Causeway. The development would be inward focused, with the principal elevations of the houses, their garages and the parking areas largely concealed from view.

24. Dwellings in the area are typically detached houses on generous plots with considerable separation between individual dwellings. However, the area also includes agricultural sites with several buildings near one another. In addition, the development would include extensive landscaping of the appeal site, including planting between the houses and the PROW as well as strengthening the southern boundary of the site, which would soften the overall appearance of the development.
25. Notwithstanding the conclusions above regarding the size and scale of the development regarding Green Belt openness, the development would therefore not result in unacceptable harm to the character and appearance of the area. It would accord with Policies D1, D2 and RA10 of the DP which collectively require that development respect and relate to the character and context of the area in which it is proposed.

Other considerations

26. The appellant has identified considerations that they contend weigh in favour of the development. These include the potential to implement the fallback Permitted Development proposals, the removal of the existing buildings which they consider detract from the character and appearance of the area, the delivery of landscape enhancements and ecological gains and the limited visual impact of the development. In addition, the development would provide a net gain of two houses on the site, supporting the government's objective of significantly boosting the supply of homes. The Council's shortfall in housing land and its failure to deliver the required number of homes as identified in the most recent Housing Delivery Test is also a consideration.
27. The stables building is lawful in planning terms but is built across the PROW alignment shown on the definitive map. The restoration of the PROW in accordance with that alignment is therefore only a neutral consideration.
28. The Framework is clear that substantial weight is to be given to any harm to the Green Belt. The cumulative benefits resulting from the proposed development attract moderate weight, but this would not clearly outweigh the harm from this development by reason of inappropriateness, including harm to its openness, and from its location which is distant from day-to-day services and facilities. Very special circumstances do not, therefore, exist in this instance.

Other Matters

29. There has been support from a local resident for the proposed development. However, this support does not outweigh the harm identified above.

Conclusion

30. There are no material considerations that indicate that the appeal should be determined otherwise than in accordance with the development plan and the Framework.
31. Therefore, for the reasons set out above, the appeal fails.

M Chalk

INSPECTOR