
Appeal Decision

Site visit made on 27 April 2021

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th May 2021

Appeal Ref: APP/C1950/W/20/3261226

25 Ayot Green, Ayot St Peter AL6 9BA

- 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 P Lockett (Burton Park Property & Estate Management) against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/1709/FULL, dated 1 July 2020, was refused by notice dated 10 September 2020.
 - The development proposed is described as 'Demolition of existing employment buildings and replacement with 3 no. cottage industry units (Resubmission)'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies;
 - the effect of the proposal on the purposes of including land within the Green Belt;
 - whether the site is an appropriate location for employment uses;
 - the effect of the proposal on the character and appearance of the area; 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 required to justify the development.

Reasons

Inappropriate development

3. The site is located in the Green Belt. Policy GBSP1 of the Welwyn Hatfield District Plan (LP) states that the Green Belt will be maintained. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and that the essential characteristics of Green Belts are their openness and their permanence.

4. The Framework also explains that inappropriate development is, by definition, harmful to the Green Belt and should only be approved in very special circumstances. One specific exception to this is the replacement of a building, provided that the new building is in the same use and not materially larger than the one it replaces. Another exception is limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use, excluding temporary buildings, which would not have a greater impact on the openness of the Green Belt than the existing development. These are set out by sub-paragraphs d) and g) of paragraph 145 of the Framework respectively.
5. The site includes several buildings and a mixture of hardstanding and unmade ground. It is enclosed by woodland and adjacent to a sawmill. Most of the buildings are weathered and have vegetation growing around them. The largest buildings are constructed from timber with corrugated metal sheeting, whilst some of the others are prefabricated. When I visited, the buildings appeared to be used principally for the storage of wood albeit a variety of building materials, containers, tools and vehicles were also evident.
6. The appellant contends that the buildings are used for purposes that, at the time that the application was made, fell within Classes B1 (Business) and B8 (Storage or Distribution) of The Town and Country Planning (Use Classes) Order 1987 (the Order). It is put forward that the proposed 'cottage industry units' would fall within the same uses as the existing buildings and that the site constitutes previously developed land. The appellant thus argues that the proposal would meet the aforementioned exceptions to inappropriate development as set out by the Framework.
7. Amongst other things, I have been provided with a copy of a decision notice¹ from February 1995 that shows that permission had been granted for the retention of buildings for storage purposes in connection with a landscape contractors business until March 2000. I have also been furnished with statements of business rates valuations from 2010 and 2017 which describe the site as being used for 'storage and premises' at those times. An affidavit from a member of the family that occupies the site has also been submitted, which states that structures on the site have been in existence for at least 40 years and sets out uses that have been carried out at the site. In addition, interested parties indicate that it has been used for commercial purposes.
8. It is not the role of an Inspector dealing with an appeal in relation to an application for planning permission to conduct an exercise as to lawful uses or operations. Applications under sections 191 or 192 of the Town and Country Planning Act 1990 should be made to the Council for such purposes. Nonetheless, I must undertake an assessment of the evidence submitted in order to determine the merits of the appeal.
9. Based on the evidence and my observations on site, I have no reason to conclude that the buildings have not been in situ for a considerable length of time. However, the affidavit provides little detail in respect of the last uses of the structures on the site and the purposes of each structure have not been specified. Critically, it is stated that the structures have been occupied for purposes including forestry and agriculture. Consequently, I cannot be certain as to whether the proposed buildings would be in the same use as the existing

¹ Council reference N6/0014/95/FP

buildings. Furthermore, as land that is or was last occupied by agricultural or forestry buildings is excluded from the Framework's definition of previously developed land, I cannot be certain that the site is previously developed.

10. Whilst the business rates valuations suggest that buildings on site may have been used for storage purposes, this does not provide conclusive evidence that all the buildings fall within Class B8 of the Order. Additionally, the records relate only to a storage container and a shed with a total floor area of 88 square metres, whereas 500 square metres of existing floorspace within Classes B1 and B8 are identified in the appeal submission. Similarly, I cannot be sure that any or all the buildings have been used in association with a landscape contractor's business for a continuous period.
11. Moreover, even if some of the buildings were last used for purposes within Classes B1 or B8, it is not possible to conclude that the lawful use of all the buildings on the site fall within those use classes. Consequently, it is not possible to assess whether the proposed buildings would be materially larger than ones that may be in the same use that would be replaced, or whether the redevelopment of any previously developed land would not have a greater impact on the openness of the Green Belt.
12. On the basis of the evidence presented, I am not satisfied that the proposal accords with either sub-paragraph d) or g) of paragraph 145 of the Framework. Consequently, the proposal constitutes inappropriate development in the Green Belt. Harm to the Green Belt would be caused by reason of the development's inappropriateness. Whilst not specified on the decision notice, the officer's report clearly refers to LP Policy GBSP1 regarding this matter. As the Green Belt would be harmed it would fail to be maintained. Thus, I find conflict with LP Policy GBSP1. In the context of the above, I am unable to assess any further harm to the Green Belt in respect of the precise effect on openness. Nevertheless, the harm by reason of inappropriateness endures.

Purposes of the Green Belt

13. The Council contends that the design, appearance and use of the development would result in urbanisation of the site. It is thus put forward that the proposal would fail to safeguard the countryside from encroachment. It is also argued that the proposal would fail to assist in urban regeneration. However, the site is self-contained and no compelling evidence has been advanced which suggests that the development of the site would result in the Green Belt failing to serve its purposes as set out by paragraph 134 of the Framework. Notwithstanding the harm by reason of inappropriateness, as identified above, there would not be further harm to the Green Belt in respect of the purposes of including land within it.

Location for employment

14. Policy EMP8 of the LP sets out criteria for new employment development on current employment sites. It also states that permission will not be granted for development of Class B uses on sites not used for employment purposes, unless it would form part of a live-work mixed use scheme.
15. I have already explained that the extent to which the site may be being used for employment or other purposes cannot be determined. Furthermore, even if some of the site is in employment use, it is not possible to ascertain whether

the development satisfies criterion a) of LP Policy EMP8, which requires it to be of a similar scale to the existing activities on the site. This is because the scale of any existing employment activities on site has not been demonstrated.

16. I note that the Council has not raised concerns in respect of the proposal's impacts on the living conditions of the occupiers of neighbouring residential properties or highway safety or network impacts. Nonetheless, based on the evidence presented and as the development does not form part of a live-work scheme, the proposal conflicts with LP Policy EMP8.

Character and appearance

17. The Council reports that the site is located within the Ayot St Peter Upland Character Area, which is characterised by the Welwyn Hatfield Landscape Character Assessment (LCA) as undulating and gently sloping, open arable farmland. It states that any development in the area should respect its character and reflect current land use. It also explains that open views are part of the area's distinctiveness.
18. The enclosed character of the site and its wooded setting bears little resemblance to the characteristics set out in the LCA. The proposed buildings would be modestly sized and finished in timber boarding. The buildings would appear as cabins that would be sympathetic of the site's setting and be compatible with the character and use of the adjacent sawmill. Moreover, the existing buildings on the site are in a deteriorating condition and as such the proposed buildings would be more attractive in comparison, albeit views in and out of the site are very limited.
19. The proposal would therefore maintain the character and appearance of the area including the LCA. It accords with LP Policies D1, D2 and RA10, which require development to be designed to a high standard, respect and relate to the character and context of the locality in which it is proposed and contribute to the conservation of local landscape character.

Other considerations

20. The Council contends that the proposal conflicts with the Council's emerging Local Plan². However, no information has been provided as to its status and thus it has no bearing on my decision. The Council has also referred to its Supplementary Design Guidance. However, no specific areas of conflict with the guidance are identified and therefore I have no reason to find that the proposal offends it.
21. The Council has not raised concerns in respect of the proposal on nearby heritage assets, which include the Ayot Green Conservation Area, Grade II listed buildings and the Bocket Hall Registered Park and Garden. I have not been provided with compelling justification for reaching a different view to the Council in respect of the effect of the proposal on the heritage assets and conclude that they would be preserved. There are also no convincing reasons to question the Council's findings in respect of matters raised by interested parties, such as the impacts of the development on the biodiversity of the area.
22. Notwithstanding my conclusions in respect of the Green Belt, the proposed buildings would be an improvement on the existing buildings visually. The site

² Welwyn Hatfield Borough Council Draft Local Plan Proposed Submission August 2016

would also provide a source of employment and thus aid the local economy. Additionally, it is put forward that proposed landscaping of the site would provide for gains in biodiversity and the development would make use of underutilised land and buildings. These matters are benefits weighing in favour of the proposal.

Planning Balance and Conclusion

23. Paragraph 144 of the Framework explains that very special circumstances to justify development in the Green Belt will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
24. There are other considerations in this case that weigh in favour of the proposal. However, I have found that the proposal would be inappropriate development in the Green Belt and the site would be an inappropriate location for employment development. The harm by reason of inappropriateness must be given substantial weight.
25. In conclusion, I find that the other considerations do not clearly outweigh the harm identified and thus the very special circumstances necessary to justify development in the Green Belt do not exist.
26. The proposal is contrary to the development plan taken as a whole. The material considerations identified do not outweigh the proposal's conflict with the development plan.
27. For the above reasons, the appeal is dismissed.

Mark Philpott

INSPECTOR