



Appeal Decision

Site Visit made on 18 October 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2021

Appeal Ref: APP/C1950/W/21/3274793

Units 1-3, 51 Welham Manor, Welham Green, Hatfield AL9 7EL

- 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 Nikon Developments Ltd against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2021/0163/FULL, dated 21 December 2020, was refused by notice dated 23 March 2021.
 - The development proposed is the erection of 7 dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Several of the plans submitted with the appeal are not listed on the Council's decision notice. However, of these, plans 4811/PA/011 A and 4811/PA/014 A involve minor changes to the landscaping layout, and plans 4811/PA/040, 4811/PA/041, 4811/PA/050, SK03 Rev C and SK06 only amend the proposal insofar as showing the location of proposed electric vehicle charging points. Accordingly, I have considered all these plans as part of this appeal.

Main Issues

3. The main issues are:
 - whether the proposal would be inappropriate development in the Green Belt, and the effect on the openness of the Green Belt;
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposal on employment land;
 - the effect of the proposal on highway safety; and
 - if the proposal would be inappropriate development, 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 it.

Reasons

Whether Inappropriate Development

4. The National Planning Policy Framework (the Framework) establishes that the construction of new buildings within the Green Belt is inappropriate. There are

however exceptions to this, notably in paragraph 149 of the Framework. The relevant one to this proposal is g) 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.

5. Policy SADM 34 of the Draft Local Plan Proposed Submission (2016) (Draft Local Plan) provides that, amongst other things, within the Green Belt planning permission will be granted for development in accordance with national policy and other policies in the plan subject to a range of criteria. The relevant criteria in this instance relate to proposals for development on previously developed sites needing to demonstrate that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This policy, and paragraph 149 g) of the Framework, assist in safeguarding the five purposes of the Green Belt. Of particular relevance is the Green Belt's purpose in relation to its assistance in safeguarding the countryside from encroachment.
6. Policy SADM 34 is not part of the adopted development plan. In relation to the Green Belt, the Council's decision notice refers to Policy H2 of the Welwyn Hatfield District Plan (adopted 2005) (District Plan) and emerging Policy SADM 1 of the Draft Local Plan but these policies do not relate to whether a proposal represents inappropriate development in the Green Belt. Whilst the text of Policy SADM 34 is broadly in conformity with the Framework, the Draft Local Plan has not yet been found to be sound, and consequently Policy SADM 34 has limited weight. Moreover, Policy RA1 of the District Plan pre-dates the Framework and contains a different list of exceptions, meaning that the Framework is the primary consideration on this main issue.
7. The status of the appeal site as previously developed land was confirmed in an appeal decision¹ from 2005, although that pre-dates the Framework and its definition of previously developed land. It is common ground between the main parties that the proposal would result in the development of previously developed land, as defined in the Framework. I have no reason to disagree with this view.
8. As such, the proposal would comply with Policy R1 of the District Plan, which provides that, amongst other things, the Council will require development to take place on land which has been previously used or developed, and with Policy H2 of the District Plan, which relates to the location of windfall residential development. Similarly, it would comply with paragraph 123 of the Framework which provides that, amongst other things, local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs.
9. The principal dispute between the parties on this main issue is whether the proposal would preserve the openness of the Green Belt, which is an essential characteristic of the Green Belt. In this regard, the parties disagree regarding the exact extent of the proposed increase in footprint when compared to the existing buildings on site, and in relation to the scale of the reduction in the amount of hardstanding that would occur.

¹ APP/C1950/A/04/1153372

10. On the evidence before me, it is not possible to determine which figures are correct. However, it is clear that the increase in footprint would not be excessive, and that the proposal would materially, and potentially significantly, reduce the amount of hardstanding on site. Furthermore, the proposal would consolidate built development close to the existing residential area, and would provide an area of landscaping, close to the wider Green Belt. Consequently, the proposal would have a limited effect on the openness of the Green Belt in purely spatial terms.
11. Nevertheless, currently the site is largely shielded from view from Welham Manor. The proposal would open up views into the site. Several proposed dwellings, all of which would be much taller than the existing buildings on site, would be visible. When considered collectively, the proposed dwellings would involve development of a much greater scale and massing than that which exists.
12. Additionally, the rustic and fairly unobtrusive buildings currently on site would be replaced by buildings of a far more substantial and imposing nature, in an essentially suburban layout with associated car parking and domestic paraphernalia. As such, the proposal would have a greater visual impact on the openness of the Green Belt than the existing development. For the same reasons, the proposal would conflict with the purpose of including land in the Green Belt in terms of its assistance in safeguarding the countryside from encroachment.
13. Accordingly, the proposal would conflict with paragraph 149 g) of the Framework. Therefore, the proposal would constitute inappropriate development in the Green Belt for the purposes of the Framework and emerging Policy SADM 34 of the Draft Local Plan. Inappropriate development is, by definition, harmful to the Green Belt.

Character and Appearance

14. The appeal site comprises a roughly rectangular parcel of land that lies immediately adjacent to an existing housing estate on one side, and woodland, allotments, and fields on the other. A large single-storey building and several smaller buildings are present, which are occupied by commercial uses. Parts of the site have a rather unkempt appearance and it is utilitarian in nature. The site is heavily screened by mature vegetation and trees. The Council have stated that the site is within the Watling Chase Community Forest, and this has not been disputed by the appellant. According to the Council, in this area the aim is to achieve major environmental improvements in provision of green infrastructure, such as planting trees.
15. The proposal involves the felling of a number of trees, including 'T2', a tall Lombardy poplar which is prominent in views along Welham Manor and which positively contributes to the character and appearance of the area. The submitted Arboricultural Impact Assessment (AIA) mentions that 'T2' is of dubious structural condition with a limited safe useful life expectancy. However, the AIA also states that 'T2' has a Useful Life Expectancy of 20+ years. Therefore, if it were not felled, it is reasonable to conclude that its positive contribution to the character of the area would likely persist for some time.
16. A new orchard and a significant amount of planting would be introduced on the southern part of the site. However, all this would take time to establish and

mature. In the meantime, tree 'T2' and several of the trees to the northern part of the site would be lost. As these trees serve as a pleasing counterpoint to the urban context of Welham Manor and are all part of the Community Forest, this would materially undermine the character and appearance of the surrounding area.

17. The plans and supporting documents provide limited information on the landscaping proposed. However, this matter could be dealt with by a suitably worded condition, should the proposal be otherwise acceptable.
18. The frontages of the proposed units Nos 1 to 5 would almost entirely consist of paving and car parking areas. This would result in the frontages of the new houses being dominated by car parking and hardstanding, with little relief provided via soft landscaping. Conditions could be imposed to ensure that permeable and contrasting materials are used. However, due to the extent of the proposed hardstanding in this location, this would not adequately mitigate the harm caused to the appearance of the area. In this respect, the proposal would conflict with paragraph 2.27 of the SDG² which requires that, amongst other things, parking must not dominate developments.
19. Moreover, whilst the inclusion of a mid-terraced dwelling is appropriate and a condition could be imposed with respect to the size and appearance of the proposed refuse storage units, the proposed placement of the refuse storage units in front of all of the proposed new houses would have a harmful impact on the appearance of the streetscene. A condition requiring details of alternative locations for refuse storage would not be appropriate, as this would conflict with the details shown on the submitted plans. Accordingly, this aspect of the proposal would conflict with paragraph 3.19 of the SDG which provides that, amongst other things, refuse collection should not be allowed to dominate the shaping and layout of an area.
20. I therefore conclude that the proposal would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with Policies D1, D2, D8, RA11 and R17 of the District Plan which collectively provide that, amongst other things, the Council will require the standard of design in all new development to be of a high quality, and with the SDG which provides that, amongst other things, new development must be sensitive to local character and must not detrimentally affect the townscape. The proposal would also conflict with paragraph 130 of the Framework, which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Employment Land

21. The site is currently used for commercial purposes, including vehicle repair and maintenance. There is conflicting evidence before me regarding the number of persons employed on site, but the appellant's figure of approximately 6 employees appears reasonable considering the current use and size of the site. Little evidence has been provided to substantiate the appellant's assertions that the employment floorspace is of poor quality or that the living conditions of the occupiers of neighbouring properties are negatively impacted by the ongoing commercial activity on site.

² Supplementary Design Guidance (adopted 2005)

22. Indeed, the activities on site are almost completely screened from Welham Manor by mature vegetation and trees. Moreover, I have no reason to doubt the representations of interested parties that the businesses provide valuable commercial services to the local community and provide support for young people via work experience and apprenticeships. This leads me to the opinion that the continued use of the site for employment purposes would help to maintain the economic conditions of the local area.
23. Each proposed dwelling would have a dedicated homeworking gallery. This may be of particular benefit in light of the ongoing coronavirus (COVID-19) pandemic. Nevertheless, the type of work that can be undertaken from home is very different from that currently undertaken on site. I consider that it is unlikely to compensate for the loss of the commercial operations which currently operate on site and which benefit the local community. Similarly, the evidence does not demonstrate that any 'live-work' mixed use scheme would not be viable, as required by Policy EMP8 of the District Plan.
24. The extract provided by the appellant relating to proposed changes to the submitted Draft Local Plan 2016 (site allocations) 2020 indicates that it is possible that the appeal site may be removed from the Green Belt and allocated for residential development as part of Policy SADM 30 which allocates sites in Welham Green. As the Draft Local Plan has not yet been found to be sound, this factor can only be given limited weight.
25. In conclusion, I find that the proposal would result in an unacceptable loss of employment land. It would conflict with Policy EMP8 of the District Plan which provides that, amongst other things, planning permission for residential development on employment sites should only be granted where it can be shown that the development of the site for a 'live-work' mixed use scheme would not be viable. It would conflict with paragraph 81 of the Framework which provides that, amongst other things, planning decisions should help create the conditions in which businesses can invest, expand and adapt.
26. In the absence of certainty over whether the site would be removed from the Green Belt and allocated for residential development, it would also conflict with Policy SADM 10 of the Draft Local Plan which provides that, amongst other things, proposals that would result in a loss of land from Class B uses to another use or uses whether in a designated employment area or not, will only be permitted where it can be demonstrated through active, extensive and realistic marketing over a period of three years that the land or premises are no longer required to meet future employment land needs and that there is a lack of demand for the land or premises in that location. However, as Policy SADM 10 is not an adopted policy, it attracts limited weight.

Highway Safety

27. Plan SK03 Rev C Swept Path Analysis – Refuse Vehicle indicates that a larger refuse vehicle would be able to enter and exit the site. I therefore find that the proposal would have an acceptable effect on highway safety. It would comply with paragraph 111 of the Framework which provides that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, neither of which apply to the proposal.

Other Considerations

28. It is common ground that the Council is currently unable to demonstrate a five year supply of housing sites as required by the Framework. Indeed, the extract of the Annual Monitoring Report indicates that the borough has a housing land supply of 2.58 years. The proposal would contribute to housing choice and mix locally. Given that the proposed development would provide 7 market houses, I afford this moderate weight.
29. The proposed dwellings would be close to a range of services and facilities, and future occupiers of the proposed development would be likely to use those services and facilities, thereby assisting their vitality. Due to the location of the site, it is likely that the future occupiers would not be dependent on private vehicles to access day-to-day services and facilities. The submitted Sustainability Strategy, Ecology and Sustainability Strategy, Ecological Enhancement Plan, and Energy Strategy Statement detail a number of positive matters that would arise via the proposal, including measures to conserve water and energy usage, and methods to avoid biodiversity loss and to enhance the provision on site for various species. As all these matters merely denote compliance with the development plan and are a function of the site's location, collectively they have been given limited weight.

Balancing of Considerations

30. The Framework makes it clear at paragraph 148 that substantial weight is given to any harm to the Green Belt. It establishes that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
31. Whilst I have found the proposal to be acceptable in terms of highway safety, this does not overcome the harm I have identified in relation to character and appearance and employment land.
32. Cumulatively, I attach moderate weight to the benefits of the proposed development which make up the other considerations. As such, the other considerations do not clearly outweigh the harm to the Green Belt, character and appearance, and employment land. Consequently, the very special circumstances necessary to justify the development do not exist. The proposed development would not therefore accord with the Green Belt aims of both emerging Policy SADM 34 of the Draft Local Plan, or the Framework as set out above.
33. The lack of a 5 year housing supply means that policies which are most important for determining the proposal are out-of-date in accordance with paragraph 11 d) of the Framework. However, part (i) of paragraph 11 d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. Therefore, the proposal would not benefit from the presumption in favour of sustainable development in this instance.

Conclusion

34. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR