



Appeal Decision

Site visit made on 15 September 2021

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 December 2021

Appeal Ref: APP/C1950/W/20/3260692

Land opposite No 9 Rollswood Road, Welwyn, Hertfordshire, AL6 9TX

- 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 A. Akintayo against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/1873/FULL dated 28 July 2020, was refused by notice dated 23 September 2020.
 - The development proposed is described on the application form as "Erection of a Three-bedroom dwelling with associated works."
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Decision

1. The appeal is dismissed.

Procedural matters

2. Although the Council makes reference to emerging Local Plan¹ in its reasons for refusal, there is no evidence before me that this document or the specific policies referred to have been found sound by the Inspector following examination and any subsequent modifications. Given the uncertainties regarding the outcome of that process, I have given these policies limited weight.
3. Since the appeal was submitted, a revised version of the Framework² has been published. Both main parties have been given the opportunity to comment on this and where applicable, I have taken their responses into account.

Main issues

4. The main issues are:
 - the effect of the development of the character and appearance of the area, with particular regard to the loss of trees, wildlife habitat and biodiversity;
 - whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy and access to services and facilities and transport choices other than the car;
 - whether the proposal would be inappropriate development in the Green Belt, and if so, the effect of the development on the openness of the Green Belt;

¹ Draft Local Plan Proposed Submission, August 2016, Welwyn Hatfield Borough Council.

² National Planning Policy Framework, Ministry of Housing, Communities and Local Government, July 2021.

- 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.

Reasons

Appeal site context

5. The appeal site consists of a modest-sized undeveloped plot of land containing a range of mature trees, which forms part of a larger woodland belt that abuts the northern side of Rollswood Road, beyond which lies open countryside and farmland.
6. There are two primary clusters of built form close to the appeal site, a row of properties directly opposite on the southern side of Rollswood Road, and a second smaller cluster to the south-west (on the northern side of Rollswood Road). The main built-up areas of Welwyn, Codicote and Oaklands lie further away to the south, north-west and east respectively. Overall, I found Rollswood Road to have a verdant countryside character set around two small clusters of dwellings.
7. The appeal site falls within the Metropolitan Green Belt, an Area of Archaeological Significance and the Danesbury Settled Slopes Landscape Character Area.

The effect of the development of the character and appearance of the area, with particular regard to the loss of trees, wildlife habitat and biodiversity

8. The proposed development would result in the loss of a large number of trees which form part of a larger tree belt that help to give the area its verdant countryside character. I recognise that many of the trees to be lost are not of a high individual quality, but when taken collectively they offer a high group value in terms of their visual impact. As a consequence, the development would significantly diminish the contribution the appeal site makes to the character and appearance of the area and also result in the loss of wildlife habitat and biodiversity.
9. The development's 3-storey height, stark contemporary form and large footprint would also dominate the plot and this would be compounded by it not falling within a continuous built-up frontage. It would therefore constitute an encroachment of built-form into an established woodland, incongruous with the prevailing pattern of development on the road. This harmful impact would be intensified by the scheme's public visibility on Rollswood Road.
10. There is no evidence before me in the form of an ecological study that demonstrates the loss of wildlife habitat and biodiversity would not be harmful or that it could be adequately mitigated for. There would also be insufficient remaining space within the site following development to plant a sufficient number of local species of trees to compensate for the loss of those existing.
11. In view of the above, I conclude that the scheme would be harmful to the character and appearance of the area, with particular regard to the loss of trees, wildlife habitat and biodiversity. The proposal would therefore conflict

with Policies R11, R17, D2 and D8 of the District Plan³ which collectively seek, amongst other things, to ensure that development respects and relates to the character and context of the area and contributes to biodiversity through; - (a) the protection, retention and enhancement of key natural landscape features, such as trees and woodlands; and (b) the promotion of natural areas and wildlife corridors.

12. I also find that the scheme conflicts with Paragraphs 127, 131 and 174 of the Framework which collectively seek, amongst other things; (a) development that is sympathetic to local character and its landscaped setting; (b) the retention of existing trees where possible; and (c) contributing to and enhancing the natural environment by (i) protecting and enhancing valued landscapes and sites of biodiversity value; and (ii) recognising the intrinsic character and beauty of the countryside and the wider benefits from natural capital and ecosystem services, to include trees and woodlands.
13. I also find that the scheme conflicts with Policy SADM16 of the Draft Local Plan which seeks, amongst other things, to ensure; (a) that proposals conserve and enhance the Borough's natural landscape; and (b) that the loss of local woodlands will be refused unless the mitigation hierarchy has been fully implemented to avoid, reduce & remediate and compensate direct impacts.

Whether the development is in an appropriate location, with particular regard to the adopted development plan settlement hierarchy and access to services and facilities and transport choices other than the car

14. Paragraph 4.1 of the District Plan states that one of its key objectives is to concentrate development into the District's main town and settlements, and that this constitutes a central strand of the Plan's sustainable development strategy. Policy GBSP2 of the District Plan identifies a settlement hierarchy of towns and specified settlements where development will be located, with particular emphasis given to the two towns of Welwyn Garden City and Hatfield. Policy GBSP1 of the District Plan clarifies that the towns and specified settlements identified in Policy GBSP2 are excluded from the Green Belt. In view of its Green Belt designation, the appeal site therefore falls outside of the boundaries of these towns and specified settlements for planning purposes. As a consequence, the scheme is in conflict with Policies GBSP1 and GBSP2 of the District Plan.
15. However, Paragraph 9.20 of the District Plan states that there is an expectation that a small proportion of dwelling numbers will come from windfall sites, namely those that have not been identified in the Plan. Policy H2 of the District Plan states that applications for windfall development will be assessed against a range of criteria, which include, amongst others, (ii) the location and accessibility of the site to services and facilities by transport nodes other than the car; and (iv) the ability to reinforce existing communities, including providing a demand for services and facilities. This policy does not explicitly restrict windfall development from being permitted within the Green Belt, but given the nature of the assessment criteria used, it would not in my view result in a significant amount of new housing within it. As a consequence, I see no conflict between this policy and the District Plan's key objective of concentrating development into the District's main town and settlements.

³ Welwyn Hatfield District Plan 2005, Adopted April 2005, Welwyn Hatfield Council.

16. The small settlements of Welwyn, Codicote and Oaklands collectively contain a wide range of facilities and amenities. Given the modest intervening distances, these could all be reached by cycling, whilst Welwyn & Codicote, approximately 1.2 miles away, could also be reached by walking using the interconnecting footway on the B656 at the bottom of Rollswood Road. I recognise that this distance may prove difficult for some, but it is of a broadly level gradient and I am satisfied that it is not so far that it would prove overly onerous for future occupants to walk. The appellant's evidence also reveals that the bus stops at the bottom of Rollswood Road provide services to a variety of larger settlements, some of which contain train stations. Overall, I found the location and accessibility of the appeal site to services and facilities by transport nodes other than the car to be of a generally acceptable standard.
17. Despite the absence of any evidence from the appellant demonstrating that the development is needed to support local facilities and services, in view of the appeal site's accessibility to the locations described above, I am satisfied that the scheme would make a limited, but nonetheless positive contribution and thereby reinforce existing communities.
18. In view of the above, I conclude that despite the scheme's conflict with the District Plan's settlement hierarchy set out in Policies GBSP1 and GBSP2, it would nonetheless be in a moderately sustainable and appropriate location based on its accessibility to existing services and facilities by a range of transport choices other than the car. As a consequence, I am satisfied the development would accord with Policy H2 of the District Plan in this regard, and that this would outweigh the conflict with Policies GBSP1 and GBSP2.

Whether the proposal would be inappropriate development in the Green Belt

19. Policy RA1 of the District Plan states that within the Green Belt, except for development referred to in Policies RA2, RA3, RA4, RA5, RA6, RA7, RA8, RA9 and R16 of the District Plan, or in very special circumstances, permission will only be given for development for purposes such as agricultural & forestry, small scale sport & recreation facilities and the re-use of buildings. Paragraphs 149 and 150 of the Framework state that the construction of new buildings and other forms of development in the Green Belt are inappropriate unless they fall within a number of exceptions. Policy SADM34 of the Draft Local Plan is broadly similar in approach to Policy RA1.
20. There is no substantive evidence before me that the proposed development falls within any of the specified exceptions identified in Policy RA1 of the District Plan. As a consequence, I conclude it would conflict with this policy.
21. In terms of the specified exceptions referred to in Paragraphs 149 and 150 of the Framework, neither would the development fall within any of these. In particular, the appeal site is located well outside the edge of the main built-up areas of Welwyn, Codicote and Oaklands, in a location characterised by woodland, countryside and small clusters of dwellings. It is not therefore within a village and does not as a consequence fall to be considered against part (e) of Paragraph 149.
22. I recognise that the site is dominated by mature trees with very limited intervisibility through it to the countryside beyond, but it is nonetheless a natural feature which makes a significant contribution to the character and appearance of the area. The development's 3-storey height, stark

contemporary form and large footprint would dominate the plot and have a greater impact upon the openness of the area than retaining the site in its present natural undeveloped form. As a consequence, I conclude that the scheme's built-form encroachment into an established woodland site in the countryside would be harmful to the character and appearance of the area. This harmful impact would be intensified by the scheme's public visibility on Rollswood Road.

23. The appellant states that existing trees would be left at the rear of the site, which would reduce the visual impact of the dwelling from the countryside fields beyond. However, I do not consider the screening of a development by landscaping to be a sound basis upon which to justify an otherwise harmful scheme as this could be repeated too easily and often for all forms of poor quality development.
24. In view of the above, I conclude that the proposal constitutes inappropriate development in the Green Belt. I have assessed the scheme's impact upon the openness of the Green Belt and concluded that it would cause moderate harm to the openness and purpose of including the land within the Green Belt.
25. I also find that the scheme does not fall within the limited infilling exception in Policy SADM34 as it is not located within a village in the Green Belt. Neither is there any substantive evidence before me that it falls within any of the other exceptions outlined by this policy. As a consequence, I conclude that the scheme would conflict with Policy SADM34 of the Draft Local Plan.

Other considerations

26. The appellant states that significant weight should be given to the scheme in accordance with Paragraph 131 of the Framework (Paragraph 134 of the new version) because of its high sustainability credentials and that Policies SP10 and SADM13 of the Draft Local Plan also offer support for such proposals. However, despite the scheme resulting in a high level of sustainable construction techniques and use of renewable energy, the measures proposed are well-established and not particularly innovative. In any event, they could be employed on other sites in locations where there is no harm to the Green Belt and character and appearance of the area. Furthermore, whilst I recognise that the Council has not objected to the detailed design of the dwelling, I do not consider it to be of such a high quality that it would raise the standard of design more generally in the area.
27. My attention has been drawn to another appeal decision, which allowed a dwelling of an outstanding and innovative design in the Green Belt⁴. However, given that I do not consider the current proposal to exhibit these characteristics, it does not provide a meaningful comparison. In any event, a significant period of time has elapsed since this decision was made and planning policy has evolved accordingly. I have as a consequence assessed the proposal on its own merits in the light of all the evidence which is now before me.
28. Paragraph 147 of the Framework states that inappropriate development is by definition harmful to the Green Belt, and should not be approved except in very special circumstances. Paragraph 148 states that very special circumstances

⁴ APP/N0410/A/14/2220241 issued on 24 September 2014.

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.

29. I have concluded that the proposal would constitute inappropriate development and therefore be, by definition, harmful to the Green Belt. I have also concluded that the proposal would cause moderate harm to the openness of the Green Belt. In accordance with Paragraph 148 of the Framework, I have given substantial weight to this harm in my assessment.
30. The appellant states that the scheme would provide them with an affordable dwelling, but there is no substantive financial evidence before me that demonstrates they are in need of an affordable dwelling, nor that it would even provide one given the additional costs I would expect to accompany a dwelling exhibiting the high sustainability credentials it does. The appellant also states that there is a need for 3-bedroom properties highlighted in the strategic housing market assessment update 2017, but I have given this limited weight in my assessment as there is little evidence why such a dwelling is essential on this particular site and cannot be met elsewhere.
31. I recognise that the scheme would result in benefits from; - (a) a quickly-deliverable contribution towards the Council's housing land supply; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the wider surrounding area; and (c) local employment during construction. However, given that only 1 dwelling is proposed, I consider these benefits to be of limited value, and not clearly outweigh the development's moderate harm to the openness of the Green Belt, which I have given substantial weight to in my assessment, and the harm to the character and appearance of the area.
32. I recognise that there would be no harm in respect of the main issue relating to whether the development is in an appropriate location, with particular regard to its accessibility to services and facilities and transport choices other than the private car. However, I am nonetheless satisfied that this would not outweigh the harm identified in respect of the main issues relating to the Green Belt and character & appearance of the area, which I deem to be sufficient to still justify dismissal of the appeal.
33. As a consequence, I find that there are no very special circumstances that clearly outweigh the scheme's harm to the Green Belt by reason of inappropriateness, and the moderate harm to its character, openness and permanence.
34. The appellant has referred to the absence of a 5 year housing land supply in the district and I have also noted that the delivery of housing was substantially below the housing requirement over the previous three years⁵. In such circumstances, this would mean that the policies which are most important for determining the application are out of date and that the Framework's presumption in favour of sustainable development applies.
35. However, the presumption in favour of sustainable development does not apply where policies in the Framework protect areas of particular importance, such as Green Belt, and provide a clear reason for refusal. I have concluded that the

⁵ 2020 Housing Delivery Test.

scheme conflicts with Paragraphs 147, 148, 149 and 150 of the Framework in relation to Green Belt, which as a consequence means that the presumption in favour of sustainable development is not engaged in accordance with Paragraph 11(d)(i) Footnote 7.

Conclusion

36. All representations have been taken into account, but no matters, including the scope of possible planning conditions, have been found to outweigh the identified failures, harm and policy conflict. For the reasons above, the appeal scheme should be dismissed.

Robert Fallon

INSPECTOR