



Appeal Decision

Site visit made on 17 February 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 March 2022

Appeal Ref: APP/J1915/W/21/3273228

Land rear of 3 – 5 Beech Close, Ware SG12 9NQ

Grid Ref Easting: 535529, Grid Ref Northing: 213491

- 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 Messrs. Wilson, Endersby, and McFiggans against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/0963/FUL, dated 21 May 2020, was refused by notice dated 11 November 2020.
 - The development proposed is 'Change of use of land from sports/recreational use to residential garden'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: i) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies, including the effect on the openness of the Green Belt; ii) the effect of the proposal on the character and appearance of the area; and iii) if the proposal would constitute 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 allow the appeal.

Reasons

Whether Inappropriate and Openness

3. Policy GBR1 of the East Herts District Plan (2018) (DP) requires proposals within the Green Belt to be considered in line with the Framework, amongst other things. Paragraph 147 of the National Planning Policy Framework (2021) (the Framework) explains that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
4. The appeal site is an area of land which currently forms part of the training grounds of Hertford Rugby Club, within the Metropolitan Green Belt. It is proposed to extend the private rear gardens of three properties into the rugby club's grounds, thereby changing the use of a slim portion of that land. Paragraph 150 of the Framework confirms that material changes in the use of land are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it.

5. Paragraph 137 of the Framework states: 'the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence'. Paragraph 138 identifies five purposes Green Belts serve, including, amongst other things, to assist in safeguarding the countryside from encroachment. Openness is therefore an essential characteristic of the Green Belt, which has spatial and visual aspects.
6. The grounds of the rugby club are a wide open space of playing pitches and hard surfaced parking areas, bounded to the north and east by the rear boundaries of residential properties. A golf course and fields lie to the south and west. The appeal site therefore forms part of the boundary between the countryside and the built development of Ware.
7. A hard surfaced track runs around the eastern edge of the rugby club grounds, leaving a small, raised bank alongside the boundaries of the rear gardens of 3 – 5 Beech Close. The appeal site has been described as an unused parcel of land with a sense of containment from the track, but I saw it to form part of the same open space as the wider rugby club grounds, albeit unused for the playing of sport due to its position between the track and boundary. The proposal would include the erection of close boarded fencing to enclose the appeal site, which would be lined with native species hedging along the western elevation.
8. The proposal would therefore introduce solid boundary fencing to an area of open land forming part of the Green Belt. As the proposal would result in that area of open land becoming part of what are currently domestic gardens, it would be unreasonable to seek to prohibit the erection of ancillary buildings, any means of enclosure or other development within that space by conditions. Even in the absence of any further development within the appeal site, it would be fully enclosed by the proposed solid boundary fencing. The proposal would therefore materially reduce the openness of the Green Belt visually and spatially by enclosing the currently open area of land and introducing three parcels of private residential garden use.
9. The reduction to the openness of the Green Belt would be very small and the level of harm to the openness of the Green Belt would therefore be low. However, the proposal would also represent the encroachment of the residential area of Ware into the countryside. The level of encroachment would also be very small, but this would conflict with one of the purposes of including land within the Green Belt. The proposal would therefore constitute inappropriate development and harm the openness of the Green Belt, contrary to Policy GBR1 and the Framework. Paragraph 148 of the Framework advises that substantial weight should be given to any harm to the Green Belt.

Character and Appearance

10. The proposed development would result in a very small loss of open countryside. The extended boundary fencing of 3 – 5 Beech Close would be seen from within the rugby club's grounds and in the context of existing residential boundary fencing abutting those grounds its impact on the character and appearance of the wider countryside would be minimal.
11. The location of the appeal site, directly at the end of modestly sized existing private gardens, would relate well to the existing garden space at 3 – 5 Beech

Close and neighbouring properties. The proposed mixed species hedging along the western elevation would soften the appearance of the proposed boundary fencing, which would be an improvement in comparison to the appearance of the existing exposed close boarded fencing.

12. The proposed development would not therefore materially harm the character or appearance of the area and would accord with Policies DES4 and HOU12 of the DP. These require development, including proposed changes of use of land to residential garden, to respect the character and appearance of the surrounding area and landscape, to be well related to other residential land, and to include the provision of appropriate landscaping and boundary treatment.

Other Considerations

13. Paragraph 148 of the Framework explains that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
14. I have seen copies of undated letters from The Richard Hale Association, the trustees of which own the appeal site. Those letters explain that the proposal would create funds to be reinvested in facilities for the playing of community sport by the rugby club, through the sale of the appeal site. The letters explain that the land is not, and will not, reasonably be used for recreational purposes or maintained by the rugby club, and that the club is largely operated by volunteers and provides benefits for the wider community by offering opportunities for school children to take part in rugby, amongst other things. I have also been referred to the strain that the Covid-19 pandemic has placed on the funding of the club.
15. I do not doubt the significant benefits offered by the rugby club to the local community or the demand for rugby facilities outlined in the Council's Open Space, Sport and Recreation Supplementary Planning Document (2020) (SPD) and Playing Pitch Strategy (2017) (PPS). However, I have not been provided with any information which suggests the future operation or community benefits of the rugby club would be reliant on the funds from the sale of the appeal site. I appreciate that further benefits could be provided by the rugby club to the local community if it were to receive those funds, but that would always be the case and would suggest further sales of land, possibly to the many owners of other neighbouring residential properties, may also be necessary.
16. I have not been provided with full copies of the SPD and PPS, but from the extracts provided it is clear that there is demand for new rugby pitch provision, community access to education pitches and enhancements to current pitches across the district. The excerpts provided suggest the Council's strategy to address these demands relies on financial contributions from new housing developments and there may be a site specific action plan, which I have not been provided with a copy of. I have also not been provided with a breakdown of the total funds the proposal would secure for the rugby club and what proportion of facilities and equipment that level of funding would secure over any specific period for me to fully assess the magnitude of such benefits.

17. Notwithstanding the above, I attach significant weight to the financial benefits to the rugby club and local community which would likely result from the proposal. However, even that significant weight would not be sufficient to constitute the very special circumstances necessary to clearly outweigh the substantial weight which the Framework advises should be assigned to any harm to the Green Belt.

Conclusion

18. The proposed development would not harm the character or appearance of the area, but it would constitute inappropriate development in the Green Belt and it would harm the openness of the Green Belt. For the reasons set out above, the harm identified would not be outweighed by any other considerations and the very special circumstances required to justify the proposal have not been demonstrated. The proposed development would therefore be contrary to the development plan and the Framework, and the appeal is dismissed.

L Douglas

INSPECTOR