



Appeal Decision

Site visit made on 23 March 2022

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 6th May 2022

Appeal Ref: APP/C1570/W/21/3279035

Heath End, Sheering Road, Hatfield Heath CM22 7LJ

- 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 and Mrs D Hayzelden against the decision of Uttlesford District Council.
 - The application Ref UTT/21/0801/FUL, dated 8 March 2021, was not refused by the Council within the notice period.
 - The development proposed is a new dwelling with off-street parking and private amenity space.
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Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by the appellants against Uttlesford District Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The Council did not make a decision on the planning application within the notice period, and as a result there is no formal refusal notice. However, the Council states that, had it issued a decision on the proposal, it would have refused permission on the basis of the proposal's effect on the Green Belt.
4. Thus, the main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the revised National Planning Policy Framework (2021) (the Framework) and any relevant development plan policies;
 - The effect on the openness of the Green Belt; and
 - Whether the harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether the scheme is inappropriate development in the Green Belt and its effect on openness

5. The appeal site lies within the Green Belt. The scheme proposes the construction of a dwelling on garden land associated with the host dwelling

- which contains a double garage, sheds and a summer house. The site has an edge of settlement location and lies adjacent to an open field.
6. Policy S6 of the Uttlesford Local Plan (2005) (the ULP) allows for development in the Green Belt only within the boundaries of four specified sites. Provisions within Policy S6 for infilling, limited development or redevelopment concern areas of Hatfield Heath which are excluded from the Green Belt and consequently do not relate to the appeal site.
 7. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances. The construction of new buildings should be regarded as inappropriate in the Green Belt, subject to a number of exceptions as set out in paragraph 149.
 8. None of these exceptions would apply to the proposed development. Thus, I am required to consider its effect on openness. The assessment of openness has both a spatial and a visual aspect.
 9. As garden land at the edge of open fields containing modest single storey structures only, the appeal site contributes to the openness of the Green Belt. The proposal seeks to construct a substantial dwelling which would be highly visible from the highway, irrespective of the proposed lower ridge height than the host dwelling. Significant two-storey built form at the site would consequently replace the current unobtrusive structures. The footprint of the dwelling and its bulk would inevitably lead to a loss of openness.
 10. The host dwelling and a small commercial area lie adjacent to the site on the village side and consequently significant built form does not currently interrupt views across the relatively open area of the appeal site towards open fields. As a result, the presence of other development in the vicinity does not reduce the identified loss of openness as suggested.
 11. I therefore conclude that the scheme is inappropriate development because it would cause moderate harm to the openness of the Green Belt and to the purpose of including land within the Green Belt, in respect of the safeguarding of the countryside from encroachment. Thus, the proposal conflicts with Policy S6 of the ULP, the aims of which are set out above. Further conflict exists with the provisions of the Framework with regard to Green Belts.

Other Matters

12. The appellants refer to an appeal decision¹ which considered the settlement boundaries set out in the development plan. They submit that, whilst the site in that case lay in the countryside for local policy purposes rather than the Green Belt, the same restrictions apply, and therefore that the other decision should be a consideration in the current appeal.
13. Nevertheless, as development in the Green Belt is subject to both local and national policy restrictions, the conclusions of another decision in respect of local policy settlement boundaries are not a determinative issue in this appeal. Therefore the matter has only minimal relevance to my decision.

¹ APP/C1570/W/19/3243727

Other considerations and the Green Belt balance

14. The Framework indicates that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the harm to the Green Belt and any other harm are clearly outweighed by other considerations.
15. The proposal would make a modest contribution to the supply of housing, given the small scale of the development.
16. Whilst there is nothing to suggest that the proposal would harm the character and appearance of the area, highway safety or other matters suggested by the appellants, these concern an absence of harm and consequently I regard them as neutral in the balance.
17. I find that the other considerations in this case do not clearly outweigh the harm that I have identified, to which I attach substantial weight. Thus, the very special circumstances necessary to justify the development do not exist.
18. Paragraph 124 of the Framework concerns the efficient use of land and sets out that proposals for such development should take into account the availability of land suitable for accommodating it. The appeal site does not form such land as I have found that the proposal forms inappropriate development for which very special circumstances do not exist. Paragraph 124 of the Framework consequently does not lend support for the scheme.
19. The Council states that it cannot demonstrate a 5 year housing land supply. The policies which are most important for determining the application are consequently out-of-date in accordance with paragraph 11d) of the Framework.
20. However, Footnote 7 to paragraph 11d) indicates that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. This includes Framework policies that protect the Green Belt. As the proposal would be inappropriate development and no very special circumstances exist, there is a clear reason for refusing the development. Accordingly, the presumption in favour of sustainable development of paragraph 11 is not engaged in this case.

Conclusion

21. For the reasons given above, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR