



Appeal Decision

Hearing held on 26 April 2022

Site visit made on 26 April 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th May 2022

Appeal Ref: APP/J1915/W/21/3273500

Land at Twyford Bury Lane, Twyford Bury, Bishops Stortford, CM22 7QA

- 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 Chris Brookhouse against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/1374/FUL, dated 13 July 2020, was refused by notice dated 21 October 2020.
 - The development proposed is removal of stables and change in land levels to allow for the erection of 1 dwelling submerged into ground with associated access, parking and landscaping works to include the creation of water features and landscaped terrace.
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Decision

1. The appeal is allowed and planning permission is granted for removal of stables and change in land levels to allow for the erection of 1 dwelling submerged into ground with associated access, parking and landscaping works to include the creation of water features and landscaped terrace at land at Twyford Bury Lane, Twyford Bury, Bishops Stortford, CM22 7QA in accordance with the terms of the application, Ref 3/20/1374/FUL, dated 13 July 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. A revised proposed landscaping scheme was submitted with the appeal and discussed during the hearing. I am satisfied that interested parties are not prejudiced by my considering these revised details in my determination of this appeal.

Main Issues

3. The appeal site is in the Green Belt outside of Bishops Stortford. The main issues are therefore:
 - Whether the development proposed would constitute inappropriate development in the Green Belt, including any effect on openness, having regard to the National Planning Policy Framework and any relevant development plan policies,
 - The effect on the character and appearance of the area; and,
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

4. The National Planning Policy Framework (the Framework) states that inappropriate development is, by definition, harmful to the Green Belt, and that the essential characteristics of Green Belts are their openness and permanence. The Framework further states that the construction of new buildings in the Green Belt should be regarded as inappropriate save for certain exceptions. Paragraph 149(g) of the Framework states that one of these exceptions is the limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development. Policy GBR1 of the East Herts District Plan 2018 (the DP) states, among other considerations, that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
5. The appeal site is a field next to a small cluster of development around the junction between Pig Lane and Twyford Bury Lane. There are three stables and a small trailer body sited in the field, but most of the site has not been built on.
6. The relevant exception at paragraph 149(g) comprises two strands, requiring that the site be previously developed land, and that the proposal not have a greater impact on openness than the existing development. If a proposal fails either strand, it would be inappropriate development.
7. The size of the proposed house and extent of associated development would be much greater than the existing built form on site. While the impact on visual openness would mainly be limited to certain views, the scale of development is such that it would have a far greater spatial impact. This would be apparent within the site, from the site entrance and from viewpoints in the surrounding area. As the permanence of the Green Belt is an essential characteristic, this spatial impact must be accorded due weight.
8. As the proposal would have a greater impact on openness than the existing development, it is not therefore necessary for me to consider whether the appeal site is previously developed land.
9. The proposed development would constitute inappropriate development in the Green Belt. It therefore conflicts with the identified requirements of the Framework and with Policy GBR1 of the DP.

Character and appearance

10. Policy DES2 of the DP requires, amongst other considerations, that development proposals must demonstrate how they conserve, enhance or strengthen the character and distinctive features of the district's landscape. It also states that appropriate mitigation measures will be taken into account when considering the effect of development on landscape character/landscaping.
11. The area in the immediate vicinity of the appeal site is characterised by open land to the east and immediately to the west. Twyford Bury House and Twyford Bury Farmhouse lie to the south, leading to the junction with Pig Lane and the cluster of development around the junction. Overall, there is a generally rural character to the site and its surroundings, especially as seen from the public

footpath that runs along its eastern boundary, although the proximity to Bishops Stortford with commercial buildings visible beyond the railway line means that there is an element of urban fringe visible nearby.

12. The site lies within the Thorley Uplands Landscape Character Area and is immediately adjacent to the River Stort Character Area to the east. It shares characteristics of both Character Areas, with longer views restricted by the established vegetation around the site and in the wider area, while the relationship to the open land to the east which slopes down to the river is of particular importance due to the public footpath crossing this land.
13. Boundary planting to the site is well established, but there are views into the site from the road and footpath at various points. These views demonstrate the overall relatively undeveloped character of the site and its immediate surroundings, which comprise countryside sensitive to change. While the boundary planting could be reinforced as part of the development, the new planting would take time to become established, and the submitted Landscape and Visual Impact Assessment makes clear that much of the existing boundary planting is deciduous and therefore provides limited screening during certain times of the year.
14. The proposed development would therefore be somewhat visible from the surrounding area, although its prominence would be limited due to its submergence. The building would have a unique design in this area, the justification for which I shall address further below, and would be finished in tiles fired from clay extracted from the site by the proposed excavations. While the building would not be prominent, its unusual form and appearance would attract the focus of passers-by, particularly those using the adjacent footpath. The appeal proposal would extend the existing cluster of buildings further into the countryside with a significantly greater presence and harmful visual impact than the existing stables.
15. Overall, therefore, the proposal would fail to conserve the character and distinctive features of the district's landscape in this sensitive countryside location. It would therefore be harmful to the character and appearance of the area, and conflict with Policy DES2 of the DP.

Other Matters

16. The neighbouring property to the south of the site, Twyford Bury House, is a Grade II listed building. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
17. No harm to the listed building has been identified as arising from the proposed development. I am satisfied that the proposed house would be sufficiently distant from the listed building that the appeal proposal would not be harmful to its setting.
18. Policy GIP2 of the emerging Bishops Stortford Town Council Neighbourhood Plan for All Saints, Central, South and Part of Thorley Parish 1st Revision proposes that the open land to the east of the site be designated as Local Green Space. Amongst other considerations, this policy would require that development which adjoins a designated Local Green Space must preserve and

enhance wildlife corridors to a width to allow sufficient biodiversity and habitat conservation. Given the extent of landscape works proposed as part of the development, which would include creating ponds and planting to attract wildlife and insects, I am satisfied that the proposed development would not conflict with this policy.

Other considerations

19. The appeal proposal would be inappropriate development. In addition, it would cause harm to the character and appearance of the area. In accordance with the Framework, this cumulative harm attracts substantial weight in my determination of this appeal.
20. My attention has been drawn to the 2021 dismissal of an appeal at the nearby Twyford Orchard site. Given the proximity of the two sites I have had regard to this decision, which also involved a proposal for housing that the Inspector found to be inappropriate development in the Green Belt. However, this previous proposal was in outline with uncertain green credentials and no other considerations in its favour beyond what the Inspector judged to be the very modest contribution of two new dwellings. This decision therefore only carries moderate weight in the determination of this appeal, given the significant differences between the proposals.
21. The appellant has identified considerations that they contend weigh in favour of the appeal proposal. These are the personal health circumstances of a family member who would live in the proposed house, and the quality of design of the proposed house and development which would address the family member's medical condition.
22. The personal circumstances of an appellant are capable of being a material planning consideration. It is a matter for the decision maker how much weight they carry in determining an appeal.
23. The family member is a young adult who has multiple debilitating health issues which have a significant detrimental impact on their overall quality of life. The proposed development is intended to mitigate the effects of these issues, with a biophilic design including providing access to water and significant natural light as well as incorporating measures such as a decompression vacuum at the house entrance, dirt repelling paint and other measures to provide as clean an environment as possible. The rural location of the appeal site would enhance the connection to nature, which is recognised by doctors as a health benefit in this case, as well as it being an area with which the family member is personally acquainted, providing a familiar environment for them. The house would be centred around an open courtyard and would provide a wellness centre to aid with the family member's ongoing treatment. The design of the house is specifically tailored to account for the body's circadian rhythms and provide opportunities for medical treatment on site which would assist with reducing the stress associated with travel and alleviating their symptoms. The design of the house overall is of exceptional quality and together with its siting in this specific location would greatly improve the living conditions of the family member. These are material considerations to which I attach great weight in the overall balance.
24. The site is close to a railway line, and the noise from passing trains and from aircraft flying near the site is clearly audible with several instances of both

occurring during my site visit. However, this is transient noise and not so frequent nor so loud that it would be intrusive within the proposed house, which has been designed to provide a tranquil and calming environment for occupiers who are, in any case, familiar with the local environment having previously lived in the area.

25. In this instance the medical needs of the appellant's family member mean that the benefits of the proposed development attract such great weight that they would clearly outweigh the identified harm. Very special circumstances do therefore exist in this instance.

Conditions

26. I have considered the conditions agreed between the appellant and Council, as well as those discussed during the hearing. Where appropriate, I have amended the wording in the interests of conciseness and in accordance with national Planning Practice Guidance.
27. I have imposed the standard condition relating to the time limit for commencement of development (1) and specifying the approved plans for the sake of certainty (2).
28. A condition requiring approval of details for the re-use of excavated materials and management of waste (3) is appropriate and necessary given the extent of excavations proposed at the site.
29. Given the sensitivity of the site and surroundings, a condition requiring approval of the external materials of construction of the proposed development (4) is required to ensure that its final appearance is acceptable in this location.
30. Given the sensitivity of the site and its countryside setting I have imposed a condition addressing various landscape matters including boundary planting, hard surfacing, the layout of vehicle parking and details of external lighting (5).
31. Concerns were raised by the Council during the hearing regarding the potential for visibility splays at the site entrance to impact on the extent of screening of the proposed development. A condition requiring approval and implementation of appropriate splays (6) is therefore relevant to planning and the development permission and reasonable in this instance.
32. A condition requiring that the on-site vehicle manoeuvring spaces be completed prior to first occupation of the dwelling (7) is reasonable and necessary in the interests of highway safety and traffic flow.
33. I have imposed a condition requiring submission and approval of a construction traffic management plan (8) given the ongoing construction works nearby and the relatively narrow width of Twyford Bury Lane.
34. A condition restricting domestic Class E Permitted Development rights (9) is reasonable in this instance given the significantly greater scale of built form proposed in comparison to the existing buildings on site, the resulting change in the character of the site and the sensitivity of the wider countryside setting to further change.
35. I am mindful that the appeal proposal is for a permanent new dwelling and substantial excavations and alterations to the site. It would therefore not be

appropriate to restrict this development by way of a condition limiting occupation of the dwelling to the appellant and their family.

Conclusion

36. For the reasons set out above, the appeal succeeds.

M Chalk

INSPECTOR

Appearances

FOR THE APPELLANT

Chris Brookhouse	Appellant
Katherine Brookhouse	Appellant
Graeme Thorpe	PWA Planning
Caroline Osbourn	DEP Landscape Architecture
Katie Lewis-Pierpoint	SDA Architecture
Rachael Leather	PWA Planning

FOR THE COUNCIL

Fiona Dunning	Principal Planning Officer
Paul Stevens	Landscape Officer

INTERESTED PARTIES

Colin Arnott	Resident
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Schedule of conditions for appeal ref: APP/J1915/W/21/3273500
Land at Twyford Bury Lane, Twyford Bury, Bishops Stortford, CM22 7QA

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby approved shall be carried out in accordance with the plans submitted. The plans include:
 - Site Location Plan as Existing and Proposed, Ref. 269 (S)2-01-PP Rev C
 - Site Plans as Existing and Proposed, Ref. 269 (S)2-02-PP Rev C
 - Elevations, as Proposed, Ref. 269 (E)5-01-PP Rev B
 - Elevations, as Proposed, Ref. 269 (E)5-02-PP Rev A
 - Ground Floor Plans & Elevations, as Existing, Ref. 269 (GA)3-01-PP Rev A
 - Site Sections & Plans, as Existing & Proposed, Ref: 269 (GA)3-02-PP Rev A
 - Ground Floor Plan, as Proposed, Ref: 269 (P)4-01-PP Rev B
 - Concept Landscape Layout, Ref: 4450 01
 - Constraints and Opportunities Plan, Ref: P.1046.18.04
3. Prior to the commencement of the development hereby approved, details shall be submitted to and approved in writing by the local planning authority of the measures to be taken in the design, demolition and excavation of the development to re-use existing materials within the new development; recycle waste materials for use on site and off; minimise the amount of waste generated; minimise the pollution potential of unavoidable waste; treat and dispose of the remaining waste in an environmentally acceptable manner; and to utilise secondary aggregates and construction and other materials with a recycled content and thereafter the development should be implemented in accordance with the approved details.
4. Prior to any above ground construction works being commenced, the external materials of construction for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority, and thereafter the development should be implemented in accordance with the approved details.
5. Prior to any above ground construction works being commenced details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - boundary treatments, including any replacement planting;
 - hard surfacing materials;
 - vehicle parking layouts;
 - external lighting; and,
 - an implementation programme.

The landscaping works shall thereafter be carried out in accordance with the approved details and the agreed implementation programme.

6. Prior to any above ground construction works being commenced details of visibility splays to the site entrance onto Twyford Bury Lane shall be submitted to and approved in writing by the local planning authority. The splays shall thereafter be provided on site in accordance with the approved details before first occupation of the approved dwelling, and retained thereafter.

7. The dwelling hereby permitted shall not be occupied until the parking spaces and vehicle manoeuvring areas clear of the public highway illustrated on the approved plan have been constructed. These shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure satisfactory parking and turning of vehicles outside highway limits. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
8. Prior to the commencement of the development, a 'Construction Traffic Management Plan' shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The 'Construction Traffic Management Plan' shall identify details of:
 - phasing for the development of the site, including all highway works;
 - methods for accessing the site, including construction vehicle numbers and routing;
 - location and details of wheel washing facilities;
 - associated parking areas and storage of materials clear of the public highway.
9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As Amended), or any amending Order, no works or development as described in Schedule 2, Part 1, Class E of the Order shall be undertaken without the prior written permission of the Local Planning Authority.

End of schedule of conditions