



Appeal Decision

Site visit made on 20 July 2022

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Appeal Ref: APP/B1930/W/22/3294152

Land off Baulk Close, Harpenden AL5 4FJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Andy Kilvington, Upland Homes, against the decision of St Albans City and District Council.
 - The application Ref 5/2021/3033, dated 28 October 2021, was refused by notice dated 23 December 2021.
 - The development proposed is Outline application (all matters reserved) – Residential development.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council changed the applicant's description of development stated on the application form and it was determined on the basis of this revised description. The appellant raised no objection to the revised description, and I have therefore determined this appeal using the revised description as it more succinctly describes the development proposed.
3. The planning application was submitted in outline with all detailed matters reserved for subsequent approval and I have considered the proposal on that basis. An indicative site layout accompanied the application, showing one way in which the appeal site could be developed for an unspecified number of dwellings.
4. The Council's delegated report considered matters relating to landscape character and ecology. Although these issues did not specifically form part of the wording of the Council's reason for refusal, these matters had formed part of its discussion in relation to Green Belt harm and the visual assessment of openness. Similar matters were also raised in the Council's appeal statement and the appellant has had the opportunity to comment on them. The Council has therefore not raised new evidence or additional policies and has acted in accordance with the Procedural Guide: Planning Appeals (2022).
5. The Council's delegated report and appeal statement reference policies from the Harpenden Neighbourhood Plan (2019). However, these policies were not referenced in its Decision Notice. As the appeal site is outside the Neighbourhood Plan Boundary, I have not found it necessary to make reference to these policies.

Main Issues

6. The main issues are:

- Whether the appeal scheme would be inappropriate development in the Green Belt;
- The effect of the proposed development on the openness of the Green Belt, and the purposes of including land in it;
- The effect the development would have on the character and appearance of the area, and;
- If the proposed development is inappropriate, 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

Background

7. The appeal site is outside of the settlement boundary and is located within a tapering area of rough grassland which runs alongside a tree-fringed pedestrian/cycleway to its south west. Beyond the pedestrian/cycleway, Riverford Close marks the edge of the settlement. The southerly edge of the appeal site adjoins Baulk Close, a small residential development on the site of a former builders yard.
8. The site forms part of a wider expanse of undeveloped land adjoining the River Lea to the north east. Just beyond the appeal site boundary the land becomes wooded as it slopes down towards the river. On the far side of the river is Lower Luton Road with arable land beyond.

Whether inappropriate development

9. The National Planning Policy Framework 2021 (the Framework) identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework further establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate, subject to a number of exceptions as set out in paragraphs 149 and 150.
10. Whilst the appellant does not explicitly argue that the scheme would constitute 'limited infilling in villages' in accordance with Paragraph 149 e) of The Framework, it is suggested that the proposed site could comprise infill development or 'rounding off' to this part of the settlement. There is no provision within Green Belt policy for rounding off settlement form and the only provision is the exception allowed under Paragraph 149 e). Whilst there is no definition in the Framework of 'infill development' this is a matter of planning judgement, having regard to factors such as the nature and size of the development, the location of the site and its relationship to other existing development adjoining and adjacent to it. The appeal site lies beyond the settlement boundary with the pedestrian/cycle route clearly defining the limits of the built up area to the south west and only a limited boundary with Baulk

Close. The entire north and eastern boundary would adjoin open countryside. It would therefore not be surrounded by a concentration of built form and could not be considered as infilling a gap within a built-up frontage.

11. The appeal proposal would therefore not fall into any of the exceptions set out in paragraph 149 and 150 of the Framework. It would therefore be inappropriate development in the Green Belt having regard to Policy 1 of the City and District of St Albans District Local Plan Review (LPR) and the Framework.

Openness

12. Openness is an essential characteristic of the Green Belt. There may well be development on two sides of the appeal site but extending the settlement out into the countryside beyond the clearly defined and tree-fringed cycle way would cause spatial and visual harm to openness. Although the proposal is in outline form with no details of siting, form or number of dwellings, such development would occupy a grassy site which is devoid of buildings or other development, except for a small, corrugated shed, and it would be permanent.
13. The form of development suggested by the indicative layout would create a linear ribbon of built form along the side of the cycle way extending out into an open, undeveloped green corridor alongside the river, uncontained on the north eastern side by existing physical boundaries. Although the site itself is not within the designated flood zone, it is close to the river and clearly forms part of the wider river corridor.
14. Visually development of the site would benefit from some existing screening along the cycle track as a result of tree cover and changes in level but there are many locations along its length, particularly at the northern end, where clear views into the site would be afforded. These would be close up views of the development, urbanising and narrowing the river corridor and harming attractive views through to the river corridor and beyond.
15. Although the appeal site is largely without mature trees there is a significant swathe of trees between it and the river. These trees would provide significant screening of the site when viewed from the Lower Luton Road, although glimpsed views would still be afforded. During the winter months, however, the presence of development on this site would become much more apparent further impacting on views across the undeveloped river corridor. Open views would also be afforded from Baulk Close and although a private road these views would still be seen by users of that road.
16. There is the potential to provide additional tree planting and screening to boundaries which might to some extent mitigate visual harm, blocking public views of this site. However, a reliance on screening by planting to mitigate an otherwise inappropriate development is not an effective means of managing visual impact, especially where the existing views make a significant contribution to landscape character. Also, limiting visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt.
17. The proposed residential use would inevitably lead to a loss of openness, and that impact would be significant. It would not meet any of the purposes of the Green Belt listed in paragraph 138 of the Framework. In particular, it would not

check the unrestricted sprawl of large built-up areas and would not assist in safeguarding the countryside from encroachment.

18. The proposed development would therefore cause significant harm to the openness of the Green Belt. Substantial weight is afforded to this harm in accordance with paragraph 148 of the Framework and LPR Policy 1.

Character and Appearance

19. The appeal site lies in the Upper Lea Valley Landscape Conservation Area. Policy 104 of the LPR states that within these areas any development that would adversely affect the high landscape quality will not be granted permission. This policy is in accordance with Paragraph 174 of the Framework which states that decisions should contribute to and enhance the natural environment by, amongst other things, protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
20. The Council has referred to a number of other local landscape designations and to potential habitats of ecological interest. Although I have not been forwarded relevant documentation, they reinforce the site's landscape value and ecological potential and demonstrate that there are strategies and guidelines in this area to preserve and enhance the quality of the landscape and to deliver landscape enhancements.
21. All these factors highlight the potential for development of the appeal site to significantly harm the character and appearance of the area, and the contribution it makes to the wider landscape. I conclude, therefore, that the appeal scheme would have an adverse effect on the character and appearance of the area and would conflict with LPR Policy 104 and the aims of the Framework.

Other Considerations

22. Despite the scheme constituting inappropriate development in the Green Belt, the appellant asserts that very special circumstances exist as the Council is unable to demonstrate a five year housing land supply, and there is an acute lack of housing delivery.
23. The Framework recognises the important contribution that small and windfall sites can make towards meeting the housing requirement in an area and that smaller sites may also be delivered more quickly. The site is also well related to services and facilities. Therefore, even though this appeal proposal is in outline form with no number of dwellings identified, the provision of additional housing in an accessible location attracts significant weight in favour.
24. The appellant intends to allow public access to the woodland and river adjoining the appeal site, and to carry out enhancements to that area. However, as this application is in outline with no details provided, only minimal weight can be attributed to this proposal.
25. The fact that the Council found no other harm beyond finding inappropriate development and a loss of openness cannot be regarded as a benefit, rather it is a neutral factor not weighing for or against the proposal.

Other Matters

26. I have had regard to other concerns raised by interested parties, including noise from construction, over-development, ecology, overlooking, potential for flooding, parking stress and highway safety. However, as I am dismissing the appeal on other grounds it has not been necessary to consider these matters further.
27. The appellant refers to an appeal decision at Bullens Green Lane, Colney. Here the Inspector took the view that the Council's acute lack of housing land supply outweighed the harm to the Green Belt. Similarly, a housing site off Harpenden Road in St Albans is also referred to. Both these cases were for large-scale housing development.
28. The appeal scheme before me is in outline with a limited number of houses achievable on this size of site and would also result in a significant harm to openness and character and appearance. I recognise that in both the cases cited substantial weight was given to the housing shortfall, but the arguments were very finely balanced, there were specific site circumstances, and the greater scale of housing was able to make a significant contribution to housing supply as well as deliver an element of affordable housing. The special circumstances which were found do not exist in this appeal and little weight is attributed to them.

Planning balance

29. 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. In considering such a proposal, the Framework is clear that substantial weight should be given to any harm to the Green Belt.
30. I have found the proposal would be inappropriate development in the Green Belt, causing substantial harm to openness, and I have identified harm to two of the purposes of the Green Belt. I have also found significant harm to the character and appearance of the area.
31. I have given significant weight to the contribution the appeal proposal would make to housing provision and to its accessible location. However, these other considerations do not outweigh the totality of the harm to the Green Belt, by reason of inappropriateness, substantial harm to openness, encroachment into the countryside and harm to character and appearance. Consequently, the very special circumstances necessary to justify the development do not exist.
32. Although the Local Plan is over five years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them in according to their degree of consistency with the Framework.
33. Whilst LPR Policy 1 does not fully accord with the more comprehensive and balanced approach of the Framework and is out of date, both parties agree that there is no significant conflict with it. Policy 104 of the LPR is generally compliant with the Framework insofar as it relates to the issues of the case.
34. The Council's shortfall in housing land supply and significant lack of delivery would normally mean that the Framework's presumption in favour of

sustainable development applies. However, this presumption does not apply where policies in the Framework which protect areas of particular importance, such as Green Belt, provide a clear reason for refusal. I have concluded that the scheme conflicts with Green Belt policy as outlined in the Framework, which as a consequence means that the presumption in favour of sustainable development is not engaged in accordance with Paragraph 11d)i. Footnote 7.

35. In concluding, therefore, the harm by reason of inappropriateness, and any other harm, would not be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal. As such, the appeal proposal would fail to accord with Policy 1 of the LPR and paragraph 147 of the Framework.

Conclusion

36. For the reasons set out above, and considering all other matters raised, the harm to the Green Belt would not be clearly outweighed by the other considerations and, therefore, the very special circumstances required to justify a grant of planning permission have not been demonstrated. Consequently, the appeal should therefore be dismissed.

G Bayliss

INSPECTOR