



Appeal Decision

Site visit made on 5 October 2022

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2022

Appeal Ref: APP/B1930/W/22/3291436

Hornbeam Wood, Common Lane, Batford, Harpenden AL5 5FF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Martin Maylin against the decision of St Albans City Council.
 - The application Ref 5/21/2355, dated 12 August 2021, was approved on 9 December 2021 and planning permission was granted subject to conditions.
 - The development permitted is: Conversion of existing stable to single dwelling to be used ancillary to the existing use of the site, and associated alterations.
 - The condition in dispute is condition 7 which states that: The occupation of the dwelling hereby permitted shall be limited to a person solely or mainly working in conjunction with the existing use of the site as an animal sanctuary. Should the animal sanctuary use cease, there should be no further use of the building hereby permitted for residential purposes.
 - The reason given for condition 7 is: To avoid the proliferation of built development within the Green Belt and to restrict the use of the dwelling to one compatible with the surrounding use of the site. To comply with Policy 1 of the St. Albans District Local Plan Review 1994 and the aims of the NPPF 2021.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Martin Maylin against St Albans City Council. This application is the subject of a separate Decision.

Preliminary matter

3. The description of the proposal on the application form is: 'Conversion of existing stable to single dwelling (C3a)'. During the application process, this description was amended by the local planning authority ('LPA') to: 'Conversion of existing stable to single dwelling to be used ancillary to the existing use of the site, and associated alterations.'
4. Based on the LPAs submissions the change in the description was considered to reflect the proposal as outlined within the submitted 'Design and Access Statement', plans and subsequent correspondence between the main parties.
5. Indeed, the submitted 'Design and Access Statement' states that the residential unit would enable 24-hour on-site supervision of the sanctuary operations. That the proposal supports the long-term viability of the sanctuary within the broad animal-boarding use category and that the use needs a residential presence on site.

6. Furthermore, the proposed plan for the new dwelling incorporates an appreciable area shown for stock rooms and an office, associated with the sanctuary use.
7. The submitted 'Site Location Plan Rev A' incorporates the stable block and the wider site, as edged red ('appeal site'). The appellant has confirmed that the primary use of the site is as hedgehog rescue, treatment and sanctuary. The original consent was granted in 1975 (ref. 5/1975/0646 – Animal sanctuary (sui generis)). In particular, the 'Site Location Plan Rev A' does not make any distinction between the existing use and the proposed use.
8. Whilst the submitted 'Design and Access Statement' includes an aerial image with a red line around the stable block and land surrounding this, there was no clear indication in the original submissions that this was to identify the curtilage for the new dwelling.
9. Consequently, on the evidence before me, the proposed dwelling is intended and required as ancillary accommodation to support the sanctuary use.
10. In any event, and despite the appellant's reluctance, the change to the description of the proposal was amended with his agreement. The application was subsequently determined by the LPA on this basis.
11. For the above reasons, I have also proceeded with the appeal on the basis of the LPAs description.

Main Issue

12. The main issue is whether the disputed condition is necessary and reasonable.

Reasons

13. At its heart the disputed condition states the approved dwelling subject of permission Ref 5/21/2355 ('the original permission') cannot be occupied independent of the extant animal sanctuary use.
14. The appeal site is located within the Metropolitan Green Belt. Policy 1 of the St. Albans District Local Plan Review (1994) ('LP') sets out the extent of the Green Belt and specifies certain types of development which would be acceptable in the Green Belt. This includes: e) conversion of existing buildings to appropriate new uses, where this can be achieved without substantial rebuilding works or harm to the character and appearance of the countryside.
15. However, the above Policy does not recognise the full extent of exceptions to inappropriate development detailed in the National Planning Policy Framework ('the Framework') or that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; that the essential characteristics of Green Belts are their openness and their permanence. In this regard, it is therefore inconsistent with the Framework to which I attach greater weight.
16. Paragraph 150 of the Framework states that certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include: 'd) the re-use of buildings provided that the buildings are of permanent and substantial construction;'

17. The stable block is of permanent and substantial construction which is currently occupied for a number of uses associated with the operation of the sanctuary.
18. Based on the description and details of the approved development, and the evidence before me, as ancillary accommodation to the existing use of the site, this would not conflict with the Green Belt aims of Policy 1 of the LP or the Framework with regard to openness and the purposes of the Green Belt.
19. Condition 6 of the original permission restricts permitted development rights for certain alterations and extensions to the approved dwelling. Therefore, this would limit the proliferation of new built development associated with the approved use. As such, the reference to proliferation of new built development in the reason for the disputed condition is superfluous.
20. However, in light of the original description and submitted 'Site Location Plan Rev A' the proposed change of use to residential use would apply to the entire appeal site, including the extant animal sanctuary use. Therefore, this would raise different considerations in respect of the character and appearance of the countryside with regard to Policy 1 of the LP and on the openness and the purposes of the Green Belt. There is also the matter of how such a proposal would affect the extant animal sanctuary use. As such, the LPAs concerns in respect of some of these matters are valid. However, because I am determining this appeal on the basis of the LPAs description, there is no requirement for me to assess the proposal as a dwelling which could be used independently of the sanctuary use.
21. Besides, since the permission granted is explicitly for a dwelling that is ancillary to the existing sanctuary use, it follows that the approved dwelling cannot be occupied independently of the sanctuary use. Therefore, the approved ancillary use is compatible with the wider use of the site.
22. If the appellant wishes to use the stable block in a way that does not fall under the approved description and is not authorised by that permission, a fresh planning permission would be required.
23. Consequently, and notwithstanding its reason, the wording of the disputed condition does no more than to formalise and clarify the nature of the permission granted. To this end, having taken account of the appellant's evidence and the advice in the Framework on the use of conditions, I conclude that the disputed condition is acceptably worded, necessary, relevant to planning and to the approved development and is enforceable, precise and reasonable in all other respects.

Other Matters

24. The Council cannot demonstrate a five-year supply of deliverable housing and is falling short of the national Housing Delivery Test. Consequently, the appellant argues that if the disputed condition were removed, this would deliver an new independent dwelling. However, because of the agreed description of the approved development, this would not be the case.
25. The appellant has referred me to an example where in determining a separate planning application at a site (Bowesbury) a dwelling was allowed without a condition limiting the occupancy of that dwelling. Whilst I do not have the full details of that scheme and others referenced in the submissions, the scheme

before me is for ancillary accommodation for an extant animal sanctuary use and therefore is not directly comparable to these examples.

26. The 2018 draft St Albans Local Plan has been withdrawn and therefore attracts no weight in the decision-making process. Given its stage of preparation, there is no certainty over the final content and policies of the Wheathampstead Neighbourhood Plan. Concerns over the delays in the processing of the appellant's planning application are for the LPA. Therefore, these matters do not alter my findings on the main issue.

Conclusion

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

M Aqbal

INSPECTOR