
Appeal Decision

Site visit made on 20 February 2023

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Levelling Up, Housing and Communities

Decision date: 21 March 2023

Appeal Ref: APP/J1915/W/21/3289156

Land off Hertford Road, Tewin, Hertfordshire

- 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 Andrew Connors against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/0959/FUL, dated 13 April 2021, was refused by notice dated 16 June 2021.
 - The development proposed is described as: *"Change of use of land for equestrian use; erection of a stable block and fencing; hardstanding with car parking spaces and internal access way"*.
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Decision

1. The appeal is dismissed.

Clarification

2. The description of the proposed development set out above is that which appears in the Council's refusal notice, as this is more accurate than that used on the original application form. In addition, the submitted plans make it clear that a new access is proposed onto Hertford Road, with gates and associated works. None of these matters appears to be disputed. I have determined the appeal on this basis.

Main issues

3. From the submissions before me, I find that the main issues in the appeal are:
 - whether the proposal would constitute 'inappropriate development' in terms of the relevant Green Belt policies;
 - the effects of the development on the area's character and appearance;
 - the effects on highway safety;
 - whether any other matters weigh significantly either for or against the development;
 - and whether any harm to the Green Belt, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances that are needed to justify development in Green Belts.

Reasons for decision

Green Belt policy

4. The appeal site comprises about 2.5 ha of agricultural grassland, set in countryside, outside the village of Tewin. The area is within the Green Belt (the GB), as defined on the East Hertfordshire District Policies Map. In the East Herts Local Plan (the EHLP), adopted in October 2018, Policy GBR1 requires that proposals for development in the GB are determined in accordance with the relevant policies of the National Planning Policy Framework (the NPPF).
5. In the NPPF, paragraph 137 states that the fundamental aim of GB policy is to keep land permanently open, and that openness and permanence are the GB's essential characteristics. Paragraph 138 sets out the GB's purposes, which include safeguarding the countryside from encroachment. Paragraph 147 then states that development which is 'inappropriate' in the GB is harmful by definition, and should not be approved except in very special circumstances. Paragraph 148 requires that any harm to the GB is given substantial weight. The same paragraph defines 'very special circumstances' as existing only where the harm, including harm to the GB by reason of inappropriateness, is clearly outweighed by other considerations.
6. With regard to what is meant by 'inappropriate development', NPPF paragraph 149 makes clear that the construction of new buildings in the GB is to be regarded as inappropriate, unless the development falls within one of a number of specified exceptions. Of these, the most relevant to the present appeal is (b), which includes facilities in connection with the use of land for outdoor sport or recreation. This exception is subject to the proviso that the openness of the GB is preserved, and that the development does not conflict with the purposes of including the land within the GB.

Inappropriateness

7. In the present case, the Council accepts that the proposed development would relate to outdoor sport or recreation, within the terms of paragraph 149(b). However the parties disagree as to the impact on openness, and on the GB's purposes, and the consequential effects on whether the development is to be treated as inappropriate.
8. On my visit, I saw that the countryside surrounding the appeal site is open in character. Travelling eastwards on Hertford Road, after leaving Tewin village, one passes for several hundred metres through an area of large, undulating agricultural fields, with no buildings of any kind. Despite the roadside hedges, there are long views in all directions, which are clearly seen by those travelling on foot or horseback, or by bicycle. Further on, the surroundings become more wooded, with scattered houses and buildings contained between the trees; but that area is distinct from the more open first section that I have described, within which the appeal site is located more or less centrally. Within this area, the GB has a particularly marked sense of openness, due to the absence of buildings, the lack of other obstructions, and the nature of the topography.
9. The proposed stable block would be an L-shaped timber building of around 15m by 5m, including overhang, plus a return section of a further 3.6m or so, with a ridge height of 3.5m. The new building would not replace any existing structure, and thus in spatial terms its presence would necessarily have the effect of reducing the GB's openness. In addition, given the especially open

nature of the landscape, and the site's highly exposed position, the introduction of a building would also substantially diminish the area's openness in visual terms too.

10. I appreciate that in this case the stables would have a rustic appearance and lightweight materials, but nevertheless, for the purposes of NPPF paragraph 149(b), it does not appear to be disputed that it would constitute a building. In this context, the paragraph in question does not distinguish between different building styles, or types of construction, and thus provides no basis for any exception on these grounds.
11. The proposed hardstanding would have a concrete surface, and would be large enough for two cars and two horseboxes to park and turn. The permanent presence of this new hard surface, and the intermittent presence of vehicles on it, would further reduce the site's openness. So too would the proposed fencing around that area, and the formation of a new access and gates. In this regard, I note that the access would need to be cut into the existing bank, and thus would be likely to require some form of either re-grading or retaining works on either side, as well as the setting-back of a section of the existing hedge. Together, these built or engineered features of the scheme would contribute to a further overall reduction in openness, exacerbating the effect of the proposed stables itself.
12. Furthermore, given the site's open nature, the proposed new building itself, and the other built elements that I have identified, would to my mind clearly appear as an encroachment of development into this area of otherwise open countryside. In this regard the proposed scheme would conflict with one of the GB's main purposes, as set out in NPPF paragraph 138.
13. For these reasons, having regard to the terms of NPPF paragraph 149(b), it seems to me that the proposed development would not preserve the GB's openness, nor would it avoid conflict with the purposes of the site's inclusion in the GB. It follows that in this case the exception relating to buildings for outdoor sport and recreation is not applicable. I therefore conclude that in terms of GB policy, the development would be inappropriate. As such, the scheme conflicts with the relevant NPPF policies, and consequently also with EHLP Policy GBR1.

Character and appearance

14. The area of countryside within which the appeal site lies forms part of a larger, continuous swathe of open, rolling fields, between the villages of Tewin and Waterford. Whilst not subject to any formal designation, there can be little doubt in my view that this is an attractive landscape, of high visual quality. For the reasons already identified above, the development now proposed would be highly visible. Consequently, despite its rural nature and purpose, the development would appear in this particular location as an alien feature. As such, it would cause significant harm to the character and appearance of the area.
15. I note that some new planting is proposed, in the form of a continuous new hedge enclosing the proposed parking area and access. To my mind however, the geometrical nature of such planting, and its effect in isolating one small area from the surrounding landscape, would be equally as incongruous as the development itself. New planting carried out in this manner, as currently proposed, would thus be likely to exacerbate the harm.

16. It might be possible that some softening could be achieved through a requirement for further additional planting, or for an alternative landscaping scheme altogether. But there is no evidence that any form of planting, either as currently proposed or in any other form, would be likely to be effective in integrating the development into the landscape.
17. I conclude that the scheme would result in significant harm to the area's character and appearance. As such it would conflict with EHLP Policies DES2, which seeks to conserve, enhance or strengthen the character and distinctive features of the District's landscape, and DES4 which requires a high standard of design and layout to reflect and promote local distinctiveness. In these respects, the development would also fail to accord with the relevant provisions of EHLP Policy CFLR6, which permits equine developments, subject to criteria which include minimising visual intrusion.

Highway safety

18. Hertford Road is, for the most part, a single track country lane, with occasional passing places. It runs mainly between hedges on either side, following an alignment that is both twisting and undulating, with numerous sharp turns, and sudden crests or dips. The proposed new access would be located between two bends, which turn first to the right and then to the left when travelling east, and on a moderate gradient, close to the crest of a slight ridge. EHLP Policy TRA2 requires that all developments have safe and suitable access for their users, and acceptable levels of highway safety.
19. From my observations during my visit, the road is quite lightly trafficked. On the appellant's evidence, the development would normally give rise to only around two or three visits to the site per day by car, and I see no reason to doubt this estimate. Even taking account of the potential for some additional trips involving horse boxes or trailers, it seems likely that the overall number of movements generated would be relatively small. But nonetheless, I can see no reason why the requirements of Policy TRA2 in respect of highway safety should not apply here, as in any other situation.
20. The Highway Authority (the HA) argues that visibility splays of 2.4m x 160m would be needed. This is said to be one step below the DMRB's recommended figure of 215m, but takes account of the fact that Hertford Road is unrestricted, and therefore speeds could be up to 60 mph. The appellant suggests that actual speeds are likely to be nearer 30 mph, and that on this basis splays of 43m would suffice. Given the nature of the road, I agree that most traffic is unlikely to travel either at or close to the legal limit. However, there is no evidence that speeds are as low as the appellant suggests. In the absence of any survey data, it seems to me that the HA's more cautious approach is justified. The appellant appears to accept that the HA's preferred distance of 160m is not achievable in this location.
21. Furthermore, although the appellant suggests that splays of 2.4 x 130m and 2.4 x 105m could be provided, to the left and right respectively, these lengths are disputed by the HA, and to my mind the submitted plans lack sufficient clarity or detail for me to be sure which party's assessment is the more accurate. Apart from anything else, the notional splay lines shown are drawn in the horizontal plane only, and thus take no account of the restricting effects of the hilly topography. This seems to me a particular issue in the left direction, towards Tewin, where forward visibility is limited by the top of the

slope. To my mind the lack of adequate clear visibility in this direction would be likely to pose a danger both to vehicles entering or leaving the site itself, and to other road users.

22. In the circumstances, I am not persuaded that the proposed development would provide safe and suitable access for all users. As such, the scheme would give rise to a significant risk to highway safety, conflicting with Policy TRA2.

Other matters

23. I note the Council's apparent concern in Refusal Reason No 2 (RR2) regarding the adequacy of the amount of grazing space that would be available. However, based on the British Horse Society guidance that both parties have referred to, the site is more than large enough for the 3 – 5 horses that could potentially be accommodated in the proposed stables; and this would remain so, even when the area taken up by the building and hardstanding are deducted. The same RR also appears to question the size of the proposed building, but this concern has not been further explained or substantiated. In my view, the building's size appears fairly typical of what one would expect for a small stables of this type.
24. In neither of these respects can I see any conflict with the previously mentioned Policy CFLR6, relating to equine development, nor with EHLP Policy ED2, which relates to the rural economy. Indeed the latter policy, dealing mainly with matters of rural employment and economic development, seems to have little relevance in any event.
25. In the case of RR5, relating to ecology and surface water flooding, the Council appears to acknowledge that both of these matters could be dealt with by conditions. Subject to such conditions, I can see no reason why the development should involve any conflict with any of the further EHLP policies referred to, including NE1 – 3, DES3, WAT1 or WAT6.
26. None of these additional matters, raised in RRs 2 and 5, therefore has any bearing on the outcome of the appeal.

Whether very special circumstances exist

27. For the reasons set out above, I have found that the proposed scheme would cause harm to the Green Belt, by reason of inappropriateness, and also due to a loss of openness, and by encroachment on the countryside. Substantial weight attaches to the harm to the GB. I have also found that it would give rise to significant adverse effects on the area's character and appearance, and on highway safety, and these add further weight against the scheme.
28. I acknowledge that the development would provide significant benefits for the appellant, in enabling him to bring his existing horses together in one location, with advantages in terms of convenience and reduced travel. But these considerations do not outweigh the several adverse impacts that I have identified.
29. I am satisfied that any potential effects on ecology and surface water drainage could be mitigated, but these add no further weight, either for or against the appeal.

30. Consequently, having regard to the requirements of NPPF paragraph 148, the 'very special circumstances' that would be needed, to justify inappropriate development in the GB, have not been demonstrated in this case.

Conclusion

31. The proposed scheme conflicts with the policies of the development plan, and with relevant national planning policy. This conflict is not outweighed by other considerations. The appeal is therefore dismissed.

J Felgate

INSPECTOR