



Appeal Decision

Site visit made on 18 April 2023

by C Beeby BA (Hons) MIPROW

an Inspector appointed by the Secretary of State

Decision date: 1 August 2023

Appeal Ref: APP/A1910/W/22/3309745

Hamberlins Farm, Hamberlins Lane, Northchurch, HP4 3TD

- 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 Timeless Design & Build Ltd against the decision of Dacorum Borough Council.
 - The application Ref 21/04770/FUL, dated 20 December 2021, was refused by notice dated 3 August 2022.
 - The development proposed is the demolition of existing buildings to form five residential units alongside access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2021 (the Framework) and any relevant development plan policies;
- The effect of the proposal on the openness of the Green Belt;
- The effect of the proposal on:
 - the character and appearance of the area with particular regard to its effect on the Chilterns Area of Outstanding Natural Beauty; and
- Whether any 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

3. The appeal site lies within the Green Belt. The scheme proposes the construction of five dwellings on land holding several barns which is associated with the host dwelling. All existing buildings at the site would be demolished to accommodate the scheme.
4. 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. One of these is the partial or complete redevelopment of previously developed land (PDL), whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt than the existing development.

5. PDL is defined in the Framework as land which is or was occupied by a permanent structure, including the curtilage of the developed land and any associated fixed surface infrastructure. Certain types of land are excluded from the definition of PDL, including land that is or was last occupied by agricultural or forestry buildings.
6. It is undisputed that Plots 1 and 3 of the scheme, on the south side of the site, are not PDL. None of the exceptions within paragraphs 149 and 150 of the Framework apply to Plots 1 and 3 and these areas would consequently form inappropriate development in the Green Belt, which would conflict with its aims by failing to safeguard the countryside from encroachment. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
7. Turning to the effect of the development of Plots 1 and 3 on openness, this assessment has both a spatial and a visual aspect. The two plots currently hold barns, a mobile home and the remnants of a collapsed structure. The proposed development at the plots would have a similar height to existing development. Whilst the proposed development would bring about a limited increase in the developed footprint of the plots, it would significantly reduce the volume of built form. It would additionally substantially increase the quantity of soft landscaping, and the proposed buildings would have a similar alignment to existing development, allowing for the retention of most sightlines through the two plots. Therefore, in overall terms, the proposed development would not harm openness at Plots 1 and 3.
8. The remaining plots (2, 4 and 5) of the scheme are considered by the parties to form PDL and I see no reason to disagree with that assessment. This element of the site would be completely redeveloped and would not contribute to meeting an identified affordable housing need within the area. It is consequently necessary, in accordance with paragraph 149g) of the Framework, to consider whether the development of plots 2, 4 and 5 would have a greater impact on the openness of the Green Belt than the existing development.
9. With regard to the spatial aspect of openness, the new dwellings would have a similar height to existing development at Plots 4 and 5, although there would be greater massing at first floor level. As Plot 2 holds only the base of a former horse walker and the corner of a barn in terms of existing development, whilst the height of the new dwelling is likely to be similar to the existing barn, the dwelling would have a significantly greater breadth and footprint. Nevertheless, the overall volume of the buildings proposed on Plots 2, 4 and 5 would be 35% less than the volume of existing development at those plots. The footprint of built form at the three plots would also be reduced by a significant degree. Thus, in overall spatial terms, the proposal would have a lesser impact on openness than existing development at the three plots.
10. The proximity of the existing large barns at Plots 2, 4 and 5 to each other results in a considerable massing of built form within views of the site. The

three proposed dwellings and their associated garaging and carports would have a similar visual effect in terms of massing. A level of domestic paraphernalia and outbuildings within the remainder of the three plots is likely to accompany their proposed use for dwellings. However, the area currently holds outbuildings and various stored items in addition to the main buildings, resulting in a similar visual effect. Furthermore, the proposal would bring about a substantial increase in soft landscaping at the three plots. In view of these considerations, the proposed development of the three plots would have a similar visual effect on openness to that of the current development.

11. In light of the above factors, I consider that in both spatial and visual terms the proposed development of Plots 2, 4 and 5 only would not have a greater impact on the openness of the Green Belt than the existing development at those plots. It would consequently be not inappropriate development in the Green Belt, which complies with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open.
12. Nevertheless, the proposed development of Plots 1 and 3 would cause harm to the Green Belt by reason of inappropriate development and it consequently conflicts with Policy CS5 of the Dacorum Borough Core Strategy (2013) (the CS). This states that the Council will apply national Green Belt policy to protect the openness and character of the Green Belt, local distinctiveness and the physical separation of settlements. It sets out that small-scale development within the Green Belt will be permitted in certain circumstances, including building for the uses "defined as appropriate" in national policy and the redevelopment of previously developed sites. This is subject to proposals having no significant impact on the character and appearance of the countryside and supporting the rural economy and maintenance of the wider countryside.
13. In setting additional criteria for development which is not inappropriate in the Green Belt to those in the Framework, Policy CS5 of the CS is partially inconsistent with the Framework. Whilst the policy follows the broad approach in the Framework, it sets additional criteria. As these are relatively extensive in scope they add to the criteria within the Framework by a moderate degree, so that the inconsistency is moderate. As a result, the identified conflict of the development of Plots 1 and 3 with Policy CS5 of the CS attracts moderate, rather than full weight.
14. Further conflict exists with Policy CS1 of the CS, which requires proposals in rural areas to be compatible with policies protecting and enhancing the Green Belt, amongst other matters. However, as I have found such a policy, Policy CS5, to be partially inconsistent with the Framework, the identified conflict of the development of Plots 1 and 3 with Policy CS1 of the CS in terms of effects on the Green Belt similarly attracts only moderate weight.
15. The proposed development of Plots 2, 4 and 5 would be not inappropriate development in the Green Belt and therefore accords with Policy CS5 of the CS in this regard. Nevertheless, whilst the occupiers of the three plots would be likely to use services and facilities in the area and hence the proposal would provide some limited support to the rural economy, I conclude later that the overall scheme would harm the character and appearance of the area, which has the highest status of protection in relation to landscape and scenic beauty. I consequently consider that this impact would be significant. As a result, the

proposed development of the three plots conflicts with Policy CS5 of the CS. It additionally conflicts with the Green Belt provisions for such areas within Policy CS1 of the CS. Due to the identified inconsistency of Policies CS5 and CS1 with the Framework, the conflict of the development of Plots 2, 4 and 5 with these policies in terms of effects on the Green Belt attracts only moderate weight.

Character and appearance

16. The appeal site lies within a valley in the Chilterns Area of Outstanding Natural Beauty (AONB). The Framework sets out that AONBs have the highest status of protection in relation to landscape and scenic beauty, and that great weight is to be afforded to the conservation of these matters.
17. The site is a farmyard associated with the host dwelling. It has a prominent position off a rural lane within a rolling landscape of open fields and areas of woodland. There are sporadic dwellings in the vicinity, which generally have an individual appearance.
18. Notwithstanding the somewhat dilapidated appearance of parts of the site, its buildings have an evident functional rural purpose, with muted colours and a lack of significant glazing. The remnants of a collapsed barn generally comprise building materials in a pile. As a result of this temporary character, they do not have a permanence which causes unacceptable harm to the area's appearance. Overall, the site currently has a neutral effect within views from the surrounding rural landscape.
19. A Landscape and Visual Impact Appraisal (LVIA) supports the appeal. The LVIA concludes that the magnitude of change to the area's landscape character resulting from the development would be moderate adverse, and not significant. It considers that the scheme would not be an incongruous element in the landscape, as adjacent existing dwellings create a precedent for residential development in the landscape.
20. The LVIA considers the sensitivity of the landscape to change against defined criteria. It concludes that the landscape is of "local value" and hence that its landscape value is one of "moderate sensitivity". It includes a table which sets out that such landscapes have a county or local value that could have a moderate susceptibility to the development proposed. The assessment of a moderate landscape sensitivity to change contributes to the LVIA's overall conclusion that the scheme would have a moderate overall landscape and visual effect.
21. However, AONBs are landscape designations of national importance. The landscape value of the AONB should consequently be one of high or very high sensitivity, in accordance with the landscape sensitivity criteria set out within the LVIA. These indicate that such landscapes have national or international value and have features or qualities which could be susceptible or very susceptible to the development proposed.
22. The LVIA concludes, in accordance with its "overall assessment" table, that the moderate sensitivity of the site and the moderate magnitude of change would result in the development having a moderate overall landscape and visual effect. However, this fails to take account of the high or very high sensitivity of the landscape value. Taking this and the sensitivity of all other identified receptors in the LVIA into account, the overall sensitivity to change would be

categorised as high, if not very high. When combined with the identified moderate magnitude of change, this results in an overall major-moderate or major landscape and visual effect, an assessment with which I concur for the reasons set out below.

23. The LVIA considers the visual impact of the proposal on views from publicly accessible points in the vicinity, stating that the scheme would have a "significant" visual impact at Year 1 after the completion of construction on views from three of these points. These are generally to the south-east of the site, comprising views from the adjacent lane, from a route with public access and from a byway crossing nearby hillside. The impacts are judged to be "not significant" in each case by Year 15 following construction due to the potential screening provided by tree and hedge planting proposed on the site's southern boundaries.
24. Whilst the submitted plans show a degree of retained hedgerow along the site's boundary with Hamberlins Lane, this lies relatively close to the front elevation of the proposed dwelling at Plot 5. It is likely that the hedgerow would be maintained at only a limited height due to the need for light and air to the dwelling and garden. It is consequently likely that views from at least the two nearest points in question would include much of the substantial two-storey built form of the property at Plot 5 and its adjoining carport and garage. The main driveway would additionally allow for views of the development as a whole from other points on the lane, and glimpses from the surrounding landscape.
25. The scale, layout and homogenous design of the proposed development of five dwellings would give rise to a contemporary and suburban appearance which would draw the eye within an area of open countryside which allows for panoramic and scenic views across a valley of the AONB from a number of publicly accessible points. Such views are identified as a special quality of the Chilterns in its Management Plan.
26. The proposed landscaping would only partially screen the scheme, for the reasons given above. Furthermore, any screening would be reduced for part of the year due to leaf loss from the proposed deciduous species, so that the development would be visible or glimpsed within several views in the vicinity over an enduring period.
27. The proposal would therefore form an incongruous feature of undue prominence within views across the AONB. Some of these views are likely to merit a value of "high" or "very high" in accordance with the LVIA's criteria setting out that such views are defined, respectively, as a view from within a designated landscape or a scenic view in a landscape that has been designated at a national level.
28. The scheme as a whole would consequently cause unacceptable harm to the appearance of the area with particular regard to its effect on the AONB. Additional harm to the character and appearance of the area would arise from the development's homogenous appearance and suburban layout around a central drive, which would jar with the relatively individual appearance of surrounding residential development and would erode the rural character of the surroundings.

29. Much of the site is currently hardstanding or contains built form. The proposal would increase the quantity of green space at the site by the provision of residential gardens. However, whilst this aspect of the scheme would have a minor beneficial effect on the area's appearance, this would not outweigh the harm identified to arise from other aspects of the development's design.
30. Whilst the Council's pre-application advice considered that the redevelopment of the site would enhance the AONB, I am not bound in this decision by that advice, and am required to make my own assessment on the evidence before me. This generally aligns with the Council's overall concerns about the final scheme in this regard, which are expressed in the relevant reason for refusal.
31. Thus, the proposal would cause unacceptable harm to the character and appearance of the area. The conservation of these matters attracts great weight due to the site's location within the Chilterns AONB. The proposal consequently conflicts with Policy CS10 of the CS, which sets out that all new development should respect defined countryside borders and the landscape character surrounding the town. Further conflict exists with Policy CS11 of the CS, which states that development should enhance the general character of an area. Additional conflict exists with Policy CS12 of the CS, which states that developments should integrate with streetscape character. Further conflict exists with Policy CS24 of the CS, which requires proposals to conserve the special qualities of the Chilterns AONB. Additional conflict exists with Policy 97 of the Dacorum Borough Local Plan (2004) (the LP), which states that the prime planning consideration in the AONB will be the conservation of the beauty of the area. Further conflict exists with the provisions of the Framework with regard to design and the natural environment.
32. Policy CS11 of the CS concerns the quality of neighbourhood design, and sets design parameters for settlements and neighbourhoods. Its relevance to the proposal is disputed by the appellant. However, the policy has some relevance to the scheme as the development would form a new small settlement when taken together with other dwellings in the vicinity.
33. The relevance of Policy CS10 of the CS is additionally disputed. Nevertheless, the policy's text indicates that it partially concerns the landscape character surrounding towns or villages. The site lies in the landscape surrounding the town of Berkhamsted and the policy is consequently relevant to the proposal.
34. It is submitted that part of Policy 97 of the LP has been acknowledged to be inconsistent with the Framework. However, how this may be the case is not explained. I have identified no inconsistency in the provisions of that policy which relate to this proposal and consequently I attach full weight to the identified conflict with Policy 97 insofar as it is relevant in determining the appeal.
35. Reliance is placed on a suggested conclusion by the Council, with regard to a previously consented scheme at the site, that the visual qualities of the AONB would be enhanced. Part of the planning balance for the previous decision included a fallback position of extant consents or the possibility of converting existing agricultural barns. As the previous consent compared the proposed scheme and the former fallback positions it is likely that different considerations applied. Furthermore, the previous consent was for a smaller scheme which included the conversion of two barn and stable buildings rather than the replacement of all buildings at the site, so that it had significant

material differences from that currently proposed. As a result of these differences, the two schemes are not so similar that the Council's conclusions in respect of the previous proposal may potentially attract weight in determining the appeal.

Other Matters

36. The appeal site lies within the zone of influence of a European site, the Chilterns Beechwoods Special Area of Conservation (the SAC). However, there is no need for me to consider the effects of the appeal proposal on the SAC because the scheme is unacceptable for other reasons.
37. My attention has been drawn to three other development schemes in the area of the appeal site. I have limited details on the circumstances of these. Nevertheless, even if the other developments and circumstances were similar, they would not inevitably provide an example that should be followed even if harm results. Accordingly, the other developments do not alter my conclusions on the current scheme.
38. I note the appellant's concerns regarding the Council's approach, however, these are not matters for this appeal, which I have determined on its planning merits.

Other considerations and the Green Belt balance in respect of Plots 1 and 3 only

39. Whilst the proposed development of Plots 2, 4 and 5 would be not inappropriate development in the Green Belt, Plots 1 and 3 would form inappropriate development. This is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
40. The site had extant planning permission (local planning authority reference 4/02922/18/FUL) for the development of five dwellings at the time of submitting the appeal. The previous scheme partially proposed the conversion of existing buildings, and views of the proposal from the south were considered by the Council to largely consist of the converted structures and a single storey dwelling which would have been of a comparable scale to the existing structure at the plot. These buildings would have been likely to be less prominent in appearance than those currently proposed, so that the previous scheme would have had a less harmful effect on the character and appearance of the area, with particular regard to its effect on the AONB, than the appeal scheme.
41. Furthermore, in order to form a fallback development there should be a real prospect of a proposal being implemented. There is no dispute that the extant permission is not capable of full implementation due to the condition of some of the buildings which would be converted. As a result of these considerations, the extant permission attracts only minimal weight as a fallback position in determining the appeal.
42. The appellant submits that the Council cannot demonstrate a five-year housing land supply (5YHLS), suggesting that the supply is 2.8 years, with a 20% buffer. The Council states that it cannot demonstrate a 5YHLS. Thus, the development would contribute to the supply of housing at a site with some access to nearby services and facilities in an area with an undisputed suggested considerable shortfall in 5YHLS. Occupiers of the development would be likely to support local businesses. As a small site it could be built-out relatively fast, providing homes quickly and attracting support from paragraph

69 of the Framework in this regard. The scheme would regenerate the site and may prevent the development of other sites in the Green Belt which would not comprise regeneration. The quantity of green space at the site would additionally be increased, resulting in a minor beneficial effect on the appearance of the area in this regard.

43. The submitted Biodiversity Impact Assessment concludes that the proposal complies with and significantly exceeds all relevant legislative and policy requirements concerning biodiversity net gain. The proposal complies with Policy CS26 (green infrastructure) of the CS in this regard.
44. These benefits would be limited in scale due to the small size of the proposed development. As a result, they attract only limited weight.
45. The submission that a requirement for additional housing in the borough may result from the production of a joint strategy for the newly formed South Herts Policy Area is unsubstantiated and consequently attracts only minimal weight.
46. Policy CS1 does not provide support for the proposal as I have found that the scheme would cause harm to the character and appearance of the AONB.
47. Whilst there is nothing before me to suggest that the proposal conflicts with other requirements of Policy CS12 of the CS than those with which I have identified conflict above, these are neutral matters which do not attract weight in support of the scheme.
48. The Framework encourages the use of PDL, which forms part of the site. Nevertheless, in accordance with Footnote 47, as the scheme would conflict with other policies in the Framework, it does not gain support from provisions therein which encourage the use of PDL.
49. There is no dispute that the proposed building design would comply with some elements of the Chilterns Buildings Design Guide, in accordance with the relevant provisions of Policy CS24 of the CS. Nevertheless, the Council's reason for refusal sets out that the section of Policy CS24 with which it has found conflict is its first sentence, which requires proposals to conserve the special qualities of the Chilterns AONB. Any compliance with other elements of the policy is a neutral matter which does not attract weight.
50. Whilst the quantity of green space proposed would result in a minor beneficial effect on the appearance of the area, I have found that the proposal would conflict with the provisions of the Framework with regard to design. Thus, paragraph 130 of the Framework does not provide support for the scheme.
51. There is no dispute that the proposal would have an acceptable effect on highway safety, parking provision and living conditions, and I see no reason to disagree with the parties' conclusions in this regard. Nevertheless, these are neutral matters which attract no particular weight in this assessment.
52. I find that the other considerations in this case in respect of Plots 1 and 3 only do not clearly outweigh the harm that I have identified. Thus, the very special circumstances necessary to justify the development of Plots 1 and 3 do not exist.

Planning Balance in respect of Plots 2, 4 and 5 only

53. As the Council cannot demonstrate a 5YHLS and this is an application for the provision of housing, the development plan policies which are most important for determining the application are considered to be out-of-date in accordance with paragraph 11 d) of the Framework. I am therefore required to consider, as set out in Framework paragraph 11 d) i, whether the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusal.
54. As the proposal would fail to conserve and enhance the landscape and scenic beauty of the AONB, significant conflict exists with paragraph 176 of the Framework, which sets out that these matters attract great weight. The application of the footnote 7 Framework policies consequently provides a clear reason for refusing the development proposed. As a result, the proposal does not benefit from the presumption in favour of sustainable development.
55. The proposed development of Plots 2, 4 and 5 only would provide the limited benefits identified above. Conversely, the harm which the proposal would cause to the appearance of the AONB would be unacceptable, and great weight is to be afforded to the conservation of its landscape and scenic beauty. Further harm would arise from the conflict with the development plan in respect of Plots 2, 4 and 5, which attracts moderate weight. These matters outweigh the benefits associated with the scheme.
56. The proposal in respect of Plots 2, 4 and 5 consequently conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

57. Whilst I have considered the Green Belt implications for the relevant part of the site only, in concluding I am considering the proposed development as a whole. The very special circumstances necessary to justify the development of Plots 1 and 3 do not exist. The proposal in respect of Plots 2, 4 and 5 conflicts with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
58. Thus, I conclude that the appeal should be dismissed.

C Beeby

INSPECTOR