



Appeal Decision

Site visit made on 11 April 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 August 2023

Appeal Ref: APP/N1920/W/22/3301054

Willow View, Kendal Hall Farm, Watling Street, Radlett WD7 7LH

- 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 Gerry Powels against the decision of Hertsmere Borough Council.
 - The application Ref 21/1971/FUL, dated 3 November 2021, was refused by notice dated 22 April 2022.
 - The development proposed is the demolition of existing mobile home/ancillary store buildings and erection of new detached 2 storey 4-bed dwelling.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. An application for costs was made by Mr Gerry Powels against Hertsmere Borough Council, which is the subject of a separate Decision.

Preliminary Matters

3. The Council have stated that their draft Local Plan (DLP) has been published, I have not been advised of any policies within the DLP that are relevant to this proposal, consequently I have determined the appeal on this basis.
4. Both parties refer to a Site Licence dated 1 May 1962 which allowed the use of land for the stationing of 2 no. caravans. There is one caravan at the appeal site at present. The plan attached to the Site Licence showed only one caravan sited on the appeal site, with another caravan located some distance beyond the appeal site. I have not been provided with evidence of two caravans having been on the appeal site, I am also not aware of a lawful development certificate to substantiate that 2 no. caravans would be lawful at the appeal site. Consequently, I have determined the appeal on this basis and any references in my decision are to a caravan and not a mobile home.

Main Issues

5. The appeal site is located within the London Metropolitan Green Belt. Accordingly, the main issues with this appeal are:
 - Whether the development would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies, including the effect of the development on the openness of the Green Belt;

- The effect upon the openness of the Green; and,
- If the proposal is found to be inappropriate development, 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

Whether inappropriate development

6. 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 exceptions as set out in paragraph 149. Policy CS13 of the Hertsmere Local Plan Development Plan Document, Core Strategy adopted January 2013 (HLP), and Policy SADM26 of the Hertsmere Local Plan, Site Allocations and Development Management Policies Plan adopted November 2016 (SADMPP) state that development proposals in the Green Belt will be assessed in relation to the Framework.
7. The appellant contends that the proposal meets exceptions d) and g) of paragraph 149 of the Framework.
8. There are a number of buildings/structures on the appeal site, including a caravan with a residential use, timber framed buildings and a blockwork building which on my site inspection appeared to be used for ad hoc storage, and 2 no. metal structures. Criteria d) of Framework paragraph 149 relates to the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces as one of the exceptions to new buildings in the Green Belt.
9. Whilst I note the suggestion that all of the buildings on the site should be considered in my assessment, it appears that on the evidence before me that it is only the caravan that is in residential use. Moreover, even accepting that the caravan is a building rather than its siting being a use of land, it is clear that the proposed 2 storey dwelling with a substantially larger footprint and significantly greater volume would be materially larger than the existing caravan on the site.
10. Consequently, for the above reasons the proposal would not fall within the exception given by paragraph 149 d) of the Framework.
11. Criteria g) of paragraph 149 of the Framework relates to 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 as a further exception for new buildings in the Green Belt.
12. The appeal site is located within the countryside on what was Kendall Hall Farm, some development of parts of the wider farm site has taken place and there are existing dwellings to one side of the appeal site, but to the opposite side is open land used for storage with low level containers. Open countryside is beyond the rear of the site, and some way opposite the site are structures and buildings associated with a nearby school. Given the surrounding uses and

the lack of any continuous arrangement of buildings adjoining the appeal site, the proposal is not regarded to be infill development.

13. The Glossary to the Framework (within Annex 2) defines previously developed land as 'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.' The definition specifically excludes land that is or was last occupied by agricultural or forestry buildings amongst other examples.
14. There were no signs of an active agricultural use on the appeal site during my site visit and whilst I note the submission that the agricultural use of the appeal site ceased in 2008, and that since then the site has been used for mainly storage, I have insufficient evidence before me to support that the land and buildings (excluding the caravan) have been continuously used for purposes other than agricultural use over this time. On the evidence before me and on the balance of probability, I consider that the site is not previously developed land in the terms of the Framework definition.
15. Even if I took the view that the caravan was a permanent structure, and the area it occupies was previously developed land, the footprint of the proposed new dwelling would occupy a much larger area than that used to station the caravan and consequently extend into land that has not been previously developed as defined by Annex 2 to the Framework. There is also insufficient evidence or certainty of any associated curtilage for that caravan, for it to be also included as previously developed land. As such, there is insufficient evidence to justify that the footprint of the proposed dwelling would on its own occupy previously developed land.
16. In view of the above reasons the proposal would not fall within the exception given by paragraph 149 g) of the Framework.
17. Moreover, even taking these exceptions together, the proposal would still comprise inappropriate development because the replacement dwelling would be materially larger than the residential caravan it replaces, and because the vast majority of the appeal site would not be previously developed land.
18. For the reasons outlined above, the appeal proposal would be inappropriate development in the Green Belt which is, by definition, harmful. It would therefore conflict with, Policy CS13 of the HLP, Policy SADM26 of the SADMPP which amongst other things, collectively seek to prevent inappropriate development in the Green Belt.

Openness

19. A fundamental aim of Green Belt policy, as set out in paragraph 137 of the Framework, is to keep land permanently open. Openness is an essential characteristic of the Green Belt that has spatial as well as visual aspects.
20. Notwithstanding my findings above, in spatial terms the proposal would represent a significant decrease in footprint of the existing buildings on the site by approximately 49.8%, and only a modest increase in building volume stated to be 6.7%. This calculation excludes the existing metal structures, as both parties have stated they are not to be included as part of the spatial assessment. The proposal would also consolidate the existing structures into one larger building.

21. However, in visual terms the proposal would have a much greater impact upon the openness of the Green Belt by virtue of its two-storey pitched roof height, and because as one building it would have a much-increased scale and mass in comparison to the existing buildings and structures, which have a much lower roof height and have either a flat or low mono-pitch roof design. Furthermore, the existing buildings are also mainly sited along the boundaries of the site, and some have a degree of landscaping that partly screens them, making the existing buildings much less conspicuous than the proposal dwelling in visual terms. This factor weighs significantly against the proposal.
22. In view of the above, in visual terms the proposal would be harmful to the openness of the Green Belt and would therefore conflict with Policy CS13 of the HLP, Policy SADM26 of the SADMPP and paragraphs 137 and 149 of the Framework, which amongst other things, collectively require that development does not to harm the openness of the Green Belt.

Other considerations

23. The Framework sets out that identified harm to the Green Belt should be weighed with any other material considerations in order to determine if there are very special circumstances which may justify inappropriate development.
24. Whilst the appellant has asserted that the Council has recognised the farm use has ceased and there is a piecemeal development to residential taking place, this in itself does not justify the proposal. This matter has no bearing on my consideration of the appeal.
25. My attention has been drawn to two appeal decisions; one being at Kendall Hall Farm¹; and the other at Prestbury². The appeal at Kendall Hall Farm was different to this appeal as both parties accepted that the site was previously developed land. The Prestbury appeal did rely on the proposal satisfying two exceptions within paragraph 149 of the Framework, however that appeal related to two dwellings; one being a replacement dwelling and one constituting limited infill, which is not the case in the proposal before me. I do not find that these appeals are directly comparable to the appeal proposal, as such I do not attach any positive weight to them in my decision.
26. Whether or not the application site has been contrived to include Building F, my assessment of the appeal has taken into account the footprint and volume of that building in my decision.
27. I note the appellant's comments about the design of the proposed dwelling; the planting proposals; the use of sustainable technologies to facilitate reductions in carbon emissions; that external finishes would match those on Kendall Hall Farm and nearby development; that the proposed dwelling would occupy a similar location to the existing mobile home at the site; that existing containers will be removed as part of the proposal; the site would be accessed from a private road that would not be visible from public roads; and that the appellant considers the proposal would be an enhancement compared to the existing character and appearance of the site. However, most of these points would also be required in any well-designed development.

¹ Ref. APP/N1920/W/20/3251004

² Ref. APP/R0660/W/20/3259305

28. The Council has advised that it is unable to demonstrate a five-year supply of deliverable housing sites, having 2.3 years supply of deliverable housing sites. This is a significant shortfall.
29. The Framework sets out at paragraph 11. d) i. and Footnote 8 that where a five year supply of housing land cannot be demonstrated or delivery of housing has been substantially below the housing requirement over the previous three years, then the most important policies for determining the application should be considered out of date and planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Footnote 7 sets out that this includes land designated as Green Belt.

The Green Belt Balance

30. Paragraph 147 of the Framework makes it clear that inappropriate development is, by definition, harmful to the Green Belt, and should not be approved except in very special circumstances. I have concluded that the proposal would be inappropriate development and would therefore, by definition, be harmful to the Green Belt. I have also found that it would cause harm to the openness of the Green Belt. These are matters to which I give substantial weight as required by paragraph 148 of the Framework.
31. The proposal would make a contribution to the supply of housing in the area at a time when the Council has a significant shortfall in housing supply. However, given the quantum of development proposed, the benefit of this would be limited.
32. It is accepted that there are benefits from the proposed development relating to the removal of the existing buildings, with the dwelling designed for the area and finished in matching materials to the adjoining dwelling. The scheme would also use sustainable technologies to reduce carbon emissions and would be located at the end of a private track and not be visible from public roads. Again, much of these matters would be likely required by the policies within the development plan and national policy and this limits the weight that I can attribute to these matters in my assessment of this case.
33. In view of the above, the other considerations advanced do not outweigh the significant harm identified by the proposed development being inappropriate development in the Green Belt and the associated loss of openness. Accordingly, no very special circumstances have been demonstrated to justify this proposal in the Green Belt. Given the harm that I have found to the Green Belt, the Framework's policy relating to protecting Green Belt land would not be complied with. As such and having regard to Framework paragraph 11. d) i., the presumption in favour of sustainable development does not apply in this appeal.

Conclusion

34. In summary, the proposal would be inappropriate development in the Green Belt in the terms set out by the Framework and would result in a harmful loss of openness to the Green Belt. The Framework requires that substantial weight should be given to any harm to the Green Belt. The harm to the Green Belt would not be clearly outweighed by the other considerations. Therefore, the

very special circumstances required to justify a grant of planning permission have not been demonstrated.

35. The proposal conflicts with the development plan taken as a whole and national policy set out in the Framework to protect the Green Belt. There are no other considerations that outweigh that conflict and for this reason the appeal is dismissed.

A Hunter

INSPECTOR