



Appeal Decision

Site visit made on 13 June 2023

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Appeal Ref: APP/B1930/W/22/3312687

**Annables Spring, Annables Lane, Kinsbourne Green, Harpenden,
Hertfordshire AL5 3PR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Mr and Mrs T Baggio against St Albans City Council.
 - The application Ref 5/22/0448, is dated 18 February 2022.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is dismissed and planning permission for the erection of a detached dwelling is refused.

Preliminary Matter

2. The proposal was submitted in outline with all matters reserved. I have considered the appeal on this basis, treating relevant plans as indicative.

Background and Main Issues

3. The appeal follows the failure of the Council to determine the planning application within the prescribed period. The Council has indicated that had it determined the application, it would have refused it. Having regard to the evidence submitted by all parties, I consider that the main issues are:
 - whether the proposal would be inappropriate development in the Green Belt and the effect on its openness; and
 - if the proposal is 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

Inappropriate Development and Openness

4. Paragraph 137 of the National Planning Policy Framework 2021 (the Framework) states that the essential characteristics of Green Belts are their openness and their permanence. Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 149 makes it clear that new buildings are inappropriate in the Green Belt, subject to a number of exceptions.

5. Policy 1 of the City and District of St Albans District Local Plan Review Adopted 30 November 1994 (LPR) sets out that within the Green Belt except for development in Green Belt settlements referred to in Policy 2 or in very special circumstances, permission will not be given for development for purposes other than that required for mineral extraction, agriculture, small scale facilities for participatory sport and recreation, other uses appropriate to a rural area or the 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.
6. Whilst the overall aim of LPR Policy 1 seeks to restrict development in the Green Belt and is therefore in overarching terms consistent with the Framework, the LPR pre-dates the Framework and does not specifically address the exceptions in the same way. I therefore give only limited weight to any conflict therewith.
7. There is no definition of village in the Framework. The appellant asserts that the appeal site is within the Green Belt settlement Annables, Kinsbourne Green, as identified in Policy 2 of the LPR. The policy refers to Green Belt settlements as smaller villages located within the Green Belt. However, the plan provided by the Council that relates to this policy is not entirely clear given the scale, as to which parts of Annables, Kinsbourne Green are included within the Green Belt Settlement designation. Notwithstanding this, case law has established that whilst a village boundary as defined in a Local Plan is a relevant consideration, it is not necessarily determinative and that an assessment should be made on the ground as well as considering any relevant policies.
8. The appeal site comprises a well maintained grassed area located to the side of Annables Spring, a detached two storey dwelling. Mature trees are located on an area of lower lying land situated between the road and the appeal site along the south western boundary with an established hedgerow running alongside the road. The road bounds the appeal site along the western boundary. A post and wire fence and a number of mature trees run along the north eastern boundary separating the appeal site from the grazing land beyond. The existing dwelling is located adjacent to a detached cottage on the same side of the road and other dwellings and built form are located on the opposite side of the road to the appeal site, forming a pocket of built form.
9. The dwellings around the appeal site are mainly large and detached dwellings, sitting in expansive grounds, with a relatively significant set back from the road. Open areas and agricultural land interspersed between the built form creates a more rural character and appearance. Significant gaps in built form located on the same side of the road as the appeal site mean that the pocket of development which the appeal site is adjacent to is removed from the private road to the north east which is more densely developed in comparison.
10. The appeal site is separated from the rear garden directly behind Annables Spring with fencing and soft landscaping along the boundary. The appeal site is located alongside the bend in the road where the reduced speed limit applies. However, given the relationship with nearby built form, the size of the plot, the open and undeveloped nature of the appeal site and the presence of the hedgerow and trees alongside the road frontage, the site reads as part of the wider open countryside rather than being within a village.

11. Therefore, whilst the appeal site is adjacent to an existing pocket of built form, taking into account the above factors it is not within a village for the purposes of paragraph 149 e) of the Framework.
12. The term 'limited infilling' is not defined in the Framework. I have also not been provided with any such definition from the development plan. This is therefore a matter of judgement for the decision maker dependent upon the individual circumstances of the case. In my view, 'limited infilling' would be the filling of a gap in an otherwise built up frontage. Given I have found above that the appeal site would be located adjacent to a pocket of built form rather than within it, it would not constitute a gap within the built environment. Therefore, even if I were to have found that the appeal site was within a village, it would not constitute limited infilling.
13. The context surrounding appeal reference APP/A0665/W/20/3247387 differed to the case of the appeal site before me, as such I would not be led to allowing this appeal since the two situations are not sufficiently similar. I have very limited information before me pertaining to how Council reference 5/17/2929 compares to the appeal site before me. I am unable therefore to ascribe its findings significant weight.
14. The Framework outlines that one of the essential characteristics of Green Belts is their openness. Openness has a spatial aspect as well as a visual one. The application was made in outline with all matters reserved. No indicative plans were provided in support of the application however, I note that the appellant's statement refers to the proposed dwelling being sited adjacent to the existing dwelling.
15. Since there is currently no development on the appeal site, any additional built form thereon would have a significant impact on the openness of the Green Belt in terms of a spatial aspect. Whilst I note that the impact on the visual aspect of openness will depend on the proposed siting and design of the dwelling, given that any built form would be likely to be viewed from the current access point and between gaps within the vegetation that run alongside the road, then it is reasonable to conclude that there would also be an impact on the visual aspect of openness as well, noticeably reducing it.
16. The proposal would not fall within the exception set out at paragraph 149 e) of the Framework. The proposal would also impact on the openness of the Green Belt and would be harmful to it. Accordingly, it would be inappropriate development, which, by definition, is harmful to the Green Belt and should not be approved except in very special circumstances. The proposal would also be contrary to Policy 1 of the LPR in so far as it is consistent with the Framework in its overarching aims.

Other Considerations

17. The appeal site is located in relatively close proximity to a local parade of shops on Luton Road where the nearest bus stops are also located, meaning that services and facilities would be accessible to future occupants. Even if these services could be accessed via sustainable means and serve the day to day needs of future occupiers, it would represent a lack of harm which, by definition, could not weigh against it. This would thus be a neutral matter and worthy of very limited weight.

18. The proposed scheme might meet other planning policy objectives, including in respect of the impact on the living conditions of existing and future occupiers, flood risk, protected species, the historic environment, car and cycle parking, and highway safety. Nevertheless, and in the same vein as above, the policy compliance of the scheme in some respects, is essentially neutral in my determination of the appeal.
19. I note intentions with regard to tree and hedgerow planting and the provision of bat boxes and bird nesting features and recognise the ecological and landscaping enhancements that these would bring. However, these things are not dependent on the proposed development and as such attract only moderate weight.

Planning Balance

20. Substantial weight should be given to any harm to the Green Belt and 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.
21. The cumulative weight I would attach to the other considerations would not be sufficient to clearly outweigh the substantial weight I must ascribe to the harm to the Green Belt I have found in terms of the reduction it would cause to its openness and the fact that it would be inappropriate. Consequently, the very special circumstances necessary to justify the proposed development do not exist.
22. The lack of a five year housing supply means that the policies which are most important for determining the proposal are out of date in accordance with paragraph 11 d) of the Framework. However, bullet point i. of paragraph 11 d) clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including Green Belt, provide a clear reason for refusing the development. As there would be harm to the Green Belt that would not be clearly outweighed, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

European Sites

23. The appeal site lies within 12.6km of the Chilterns Beechwoods Special Area of Conservation (SAC), a protected European site. The SAC is protected under the Conservation of Habitats and Species Regulations 2017. Natural England have confirmed that within this identified distance of the European site, mitigation measures would be necessary to rule out adverse effects on the integrity of the SAC from the cumulative impacts of development, with regard to recreational pressure.
24. If I had been minded to allow the appeal, it would have been necessary for me to complete an appropriate assessment for this scheme and consider this matter further. However, I have already identified harm to the Green Belt, such that undertaking my own appropriate assessment would not alter the outcome of the appeal. On that basis, there is no need to examine this matter further.

Conclusion

25. The proposal would conflict with the development plan when taken as a whole and the requirements of the Framework. There are no other material considerations worthy of sufficient weight that would indicate a decision otherwise. The appeal is therefore dismissed.

G Dring

INSPECTOR