



Appeal Decision

Site visit made on 9 January 2024 by Thomas Courtney BA(Hons) MA MRTPI

Decision by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th May 2024

Appeal Ref: APP/N5090/W/23/3325219

Avebury Cottage, Arkley Lane, Arkley, Barnet EN5 3JW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Gerry Vaughan against the decision of the London Borough of Barnet Council.
 - The application Ref 23/1700/OUT, dated 19 April 2023, was refused by notice dated 14 June 2023.
 - The development proposed is the demolition of existing dwelling, buildings and structures and erection of two detached dwellings and associated landscaping.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matter

3. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Other than the paragraph numbers, the provisions in the revised Framework relating to 'Proposals affecting the Green Belt' are the same as those that were in the previous version of the Framework when the Council made its decision. Therefore, it has not been necessary to seek the views of the main parties on this matter.
4. The application form seeks outline planning permission with all matters reserved for subsequent approval. Therefore, I have considered the details on the proposed plans provided on the basis that they are indicative only.

Main Issues

5. The main issues are:
 - (i) whether the proposal would be inappropriate development in the Green Belt including the effect of the proposal on its openness; and
 - (ii) 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 necessary to justify the proposal.
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Reasons for the Recommendation

Whether inappropriate development

6. Avebury Cottage comprises of a two-storey detached dwelling with a pitched roofed detached garage set within a substantial plot within the Green Belt. There are several outbuildings located within the site, including a large barn-like building close to the main dwelling and garage.
7. Paragraph 154 of the Framework states that new development is inappropriate in the Green Belt unless it falls within the given list of exceptions. Under exception (d) the replacement of a building may be permitted, provided the new building is in the same use and not materially larger than the one it replaces. Exception (g) relates to limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development.
8. Policies CS NPPF, CS1 and CS7 of Barnet's Local Plan (Core Strategy) (2012) (CS) and Policy DM15 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) (DMP) are not wholly consistent with the wording of the Green Belt provisions within the Framework. However, they do reflect a presumption in favour of sustainable development and seek amongst other things that development proposals in the Green Belt comply with the Framework. Policy G2 (Green Belt) of the London Plan (2021) is consistent with the Framework as it seeks to protect the Green Belt from inappropriate development and states that development proposals that would harm the Green Belt should be refused except where very special circumstances exist. In these respects, the policies of the development plan have also been material to my assessment.
9. My observations on site were that, other than the garage, the appearance and in some cases the significant physical separation between the other detached outbuildings mean that they do not read as forming a building for the purposes of applying exception (d) of paragraph 154 of the Framework. Even if I were to reach an alternative finding, the proposal is for the replacement of the existing dwelling with two dwellings which cannot reasonably be construed as replacing one building with another. Therefore, the proposal does not meet exception (d).
10. Turning to exception (g) of paragraph 154 of the Framework, what constitutes limited infilling is not defined within the Framework. However, it is commonly understood that infilling relates to the development of a small gap in a built-up frontage. Given the appeal site relates to a single dwelling with countryside to either side, this indicates to me that the proposal is not infill.
11. Nevertheless, the site is evidently previously developed in terms of the existing dwelling and development within its curtilage which includes several associated outbuildings. The site and immediate surroundings to this side of Arkley Lane do not have the characteristics of a built-up area. Residential gardens which are not in 'built-up areas' are not excluded from the definition of previously developed land in the Framework, as held in *Dartford BC v SSCLG* [2017]

- EWCA Civ 141. The Framework also confirms that it should not be assumed that the whole of the curtilage should be developed in such cases. With these factors in mind, the proposal could meet exception (g) provided the redevelopment would not have a greater impact on openness than the existing development.
12. It has been held in the High Court that openness is epitomised by the lack of buildings or development. Openness can have a spatial aspect as well as a visual aspect.
 13. The Council has referred to its Residential Design Guidance (2016) which it says states that 'Proposed demolitions can be deducted in calculations if they are an integral part of the dwelling'. However, the evidence before me suggests that this relates to extensions and so is not directly applicable to the proposal for dwellings.
 14. Therefore, it is reasonable to do a comparison of all existing development envisaged for removal against the proposed development in an assessment of whether or not the proposal would have a greater impact on openness for the purposes of exception (g). While the proposal is in outline form, I would need something to determine whether the proposal would be capable of meeting this exception. In that regard, the appellant's illustrative plans and calculations are the only way to do this.
 15. The appellant's calculations include a provision for a 25% increase in floorspace and volume over the existing house and garage. However, there are no such provisions in the Framework nor do they form part of the relevant policies of the Council's development plan. Accordingly, I have not factored this in to my assessment.
 16. Based on the calculations before me, the existing house, garage and outbuildings that would be removed have a combined volume of 1455.86 m³ and a combined floor area of 381.84 m². Consequently, with a total volume of 1587 m³ and total footprint of 327 m², the appellant's calculations of the envisaged dwellings indicate that a reserved matters scheme could have spatial effects comparable to the existing situation. A condition requiring that the final scheme was no greater in size than the existing house, garage and outbuildings to be removed could provide certainty that the spatial effects would not be greater than the existing situation.
 17. The existing dwelling and garage sit close together, giving a degree of visual containment on the site frontage. Due to their low height, the natural tone of the external materials and the intervening soft landscaping 'Outbuildings 1 and 2', as identified on the plans, are visually recessive and subservient in appearance. The other outbuildings identified by the appellant for removal are located towards the rear of the site and are not highly discernible from Arkley Lane.
 18. In contrast, the illustrative plans suggest that two dwellings, in close proximity to Arkley Lane would be likely to increase the perception of built form when experienced by passers-by on Arkley Lane. In particular, 'House 2' with its domestic form and fenestration, including accommodation at roof level, would not be as visually recessive as the outbuildings to that part of the site. It is also envisaged that 'House 1' would be located further to the north. Such an

arrangement would place development into an area of the site not currently occupied by building form of a comparable scale.

19. In addition, while such an arrangement would afford a gap between the two dwellings, the illustrative plans indicate that this would be segregated by a boundary and the dwellings would be served by individual access points and driveways. Together with the associated levels of activity and any residential paraphernalia associated with two dwellings, including parked vehicles, this would further diminish openness from a visual perspective when compared with the existing situation. There is no alternative illustrative scheme before me to suggest the development would not result in such visual impacts.
20. As a result of the above factors, I find that the proposal would have a greater visual impact on the openness of the Green Belt than the existing development. Therefore, the proposal does not meet exception (g) of paragraph 154 of the Framework.
21. The appellant contends that the exceptions in the Framework are not mutually exclusive and has referred to an appeal decision in Prestbury¹. From what I have seen, the material considerations in respect of the Green Belt requirements in the Framework were not identical to the appeal proposal.
22. Having regard to the specific circumstances of the appeal before me, even if one of the dwellings was conditioned to be no larger than the existing dwelling, and on that basis was considered to accord with exception (d), there is no clear evidence that the second proposed dwelling would not influence an arrangement that would result in an increased perception of development on the site. Therefore, even if I apply the exceptions at Paragraph 154 (d) and (g) together, the identified conflict with exception (g) remains and the proposal is inappropriate.
23. I conclude, the proposal constitutes inappropriate development in the Green Belt and would not preserve its openness. It therefore conflicts with the Green Belt requirements of the development plan and the Framework.
24. The Council's decision notice also refers to Policy DM01 (Protecting Barnet's character and amenity) of the DMP. Given that this policy does not relate to Green Belt considerations, it has not been material to my findings. However, this does not diminish the harm identified above.

Other considerations

25. The proposal would deliver an additional dwelling over and above the existing situation, making a limited contribution to the Council's housing requirements. However, this is in the context that there is no evidence before me to suggest that there is a critical need for housing in the area. The design of the dwellings would be finalised at the reserved matters stage, but there is nothing to suggest they would be of any significant architectural merit.
26. The appellant indicates that the location of one of the dwellings 'further into the plot than the existing dwelling' would allow for the retention of a 'magnificent specimen Oak tree'. Whether or not that be the case, this only further indicates that the final scheme would likely be arranged in a similar way to that on the

¹ Appeal ref. APP/R0660/W/20/3259305

illustrative plans and would have a greater impact on openness for the reasons already set out.

27. The envisaged Biodiversity Net Gains would relate to the appeal site only and would not be of a substantial magnitude.

Green Belt Balance and Overall Conclusion

28. The development constitutes inappropriate development in the Green Belt to which I attach substantial weight. The Framework states that inappropriate development is by definition harmful to the Green Belt and should only be approved in very special circumstances. 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. This is a high hurdle for a development proposal to overcome. The other considerations put forward in favour of the proposal only carry very limited weight.
29. In conclusion and on balance, the substantial weight to be given to Green Belt harm is not clearly outweighed by other considerations and therefore the very special circumstances needed to justify the proposed development do not exist.

Recommendation

30. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Thomas Courtney

APPEAL PLANNING OFFICER

Inspector's Decision

31. I have considered all the submitted evidence and my representative's recommendation and on that basis the appeal is dismissed.

M Russell

INSPECTOR