



Appeal Decision

Site visit made on 30 April 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/A1910/W/23/3327913

Kingsway, London Road, Bourne End, Hertfordshire HP1 2RQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms K Jany against the decision of Dacorum Borough Council.
 - The application Ref is 23/00277/FUL.
 - The development proposed is the erection of 3 detached dwellings and garage with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal documentation a daylight and sunlight assessment report has been provided. This report was not before the Council at the time the application was determined. However, the Council and other interested parties have had the opportunity to submit representations in respect of it at the appeal stage. Therefore, no parties would be prejudiced by my consideration of this additional information.
3. A Unilateral Undertaking (UU) has also been submitted, that was completed following the submission of the appeal. It includes an obligation relating to the payment of financial contributions towards Strategic Access Management Monitoring, and Suitable Alternative Natural Greenspace. The Council has had the opportunity to comment on the UU. I will return to this matter later in this decision letter.

Main Issues

4. The appeal site is within the Green Belt. As such, the main issues are:
 - whether the proposed 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; and, the effect of the proposed development on;
 - the openness of the Green Belt;
 - the character and appearance of the area; and
 - the conditions of the users of the neighbouring Bourne End Day Nursery (the nursery), with particular regard to sunlight and daylight; and

- if the development is inappropriate, 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 necessary to justify the development.

Reasons

Whether inappropriate development in the Green Belt

5. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It also states that one of the purposes of the Green Belt is to assist in safeguarding the countryside from encroachment. Framework paragraph 152 then indicates that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
6. Paragraph 154 of the Framework sets out that limited infilling in villages is not inappropriate in the Green Belt. Policy CS5 of the Dacorum Borough Council – Core Strategy¹ (the Core Strategy) both accords with and builds upon the Framework in respect of the Green Belt. It does this by indicating that the Council will apply national Green Belt policy, and, by indicating that where certain circumstances are met, proposals for small-scale development, for buildings for the uses defined as appropriate in national policy will be permitted.
7. In determining application reference 20/01184/ful the Council indicated that Bourne End could be considered as a village. Given this, and on the other evidence before me, I have no reason to reach an alternative view.
8. The development would largely fill the gap between the petrol station and the nursery. However, it does not necessarily follow that the appeal site currently constitutes part of the village.
9. I am advised that Bourne End is not afforded settlement boundaries within the current Development Plan. That being the case, whether the appeal site is within the village of Bourne End must be determined based on the facts on the ground and the evidence.
10. When travelling from the nearby junction between the A41 and the A4251 towards Bourne End, the character of the area changes markedly beyond the appeal site. Together, the petrol station; the 'Bourne End' sign; and the signs which indicate the start of a 30mph zone, read as a gateway to the village. At this point, the hedgerows, fields, undeveloped land and sporadic properties to the sides of the road also give way to an area within which houses and other built development become dominant.
11. A pavement alongside the A4251 (London Road) provides pedestrian access between the petrol station and the nursery. While I have no reason to doubt that the nursery is likely to be used by residents of the village, it is separated from the petrol station by the largely overgrown and undeveloped appeal site. It is also set well back from the road and located to the rear of an area of well-established trees and vegetation. As such, and notwithstanding the presence of

¹ Dacorum Borough Council Core Strategy 2006 – 2031 Dacorum's Local Planning Framework Adopted 25 September 2013

related roadside signage, the nursery, cannot currently be understood to be within the village.

12. Even if an emerging Local Plan policy map includes; the appeal site; the nursery; and properties within the hamlet of Winkwell, within settlement limits for Bourne End, only very limited weight can currently be attributed to such a map. This is because changes to the plan and the associated policy map cannot be ruled out before any such plan is adopted. Nevertheless, for the reasons previously given, the appeal site is not deemed to be within a village. Consequently, the proposed development cannot constitute limited infilling within a village.
13. While the Council deemed that the development subject of application reference 20/01184/ful represented limited infilling within Bourne End, that site was to the west of the petrol station. As such, neither the permission granted pursuant to that application, nor the presence of a bus stop to the front of the petrol station, lead me away from my previous findings.
14. For the reasons given, the proposed development would be inappropriate development in the Green Belt. As such, unless very special circumstances exist, the scheme should not be approved.

Openness

15. The implementation of the proposed development would result in the construction of buildings and hardstandings on the largely undeveloped appeal site. Moreover, parts of the development would be visible from both the section of London Road adjacent to the site and from within the properties to either side of it. This is despite the proposed retention of areas of plant growth close to some of the boundaries of the site. As such, in both spatial and visual terms, the development would reduce the openness of the Green Belt.

Character and appearance

16. Trees and plants cover a large proportion of the appeal site. As such, and albeit located close to both a built-up part of Bourne End and London Road, the appeal site retains a pleasant and verdant character and appearance.
17. While the spacing between buildings on the site would be relatively small, larger spaces would be formed between these buildings and the neighbouring petrol station and nursery buildings. Furthermore, and although variable, during my site visit I observed that the typical spacing between buildings to the west of the petrol station was not large, and often quite small. As such, the spacing of the proposed development would not be atypical of other nearby development addressing London Road.
18. The proposed houses would be set well back from London Road. While sizable amounts of hardstanding would be formed to the front of the houses, these would be broken up by areas of lawn. Furthermore, the dwellings would be of modest heights, and the proposed site sections plan indicates that most of the ground floors of the buildings would be beneath the level of London Road to the front of the site. For these reasons, and because of the proposed retention of the well-established band of trees and plants close to the London Road facing site boundary, the development would be well-screened and not prominent from those locations along London Road where it would be visible.

19. The retention of the planting close to the site frontage, will also serve to preserve the sense of verdancy of the stretch of London Road passing the appeal site. The quality of the London Road streetscape will not therefore be harmed as a result of the implementation of the proposals.
20. For these reasons, the proposed development would not cause harm to the character and appearance of the area. Consequently, it would comply with policies CS11 and CS12 of the core strategy. Collectively these policies seek to ensure that, amongst other things, new development preserves attractive streetscapes, avoids large areas dominated by car parking, and, to respect adjoining properties in terms of matters such as layout, landscaping and scale.

Conditions of the users of the neighbouring nursery

21. At ground floor level, there are 3 reasonably sized clear glazed windows within the nursery building that face the appeal site. The evidence indicates that these windows serve 3 classrooms.
22. There is no proposal to remove the overhangs above the appeal site-facing windows. As such, it would be unreasonable to consider this main issue on the basis that the overhangs would not be present.
23. In terms of daylight distribution and having regard to the submitted daylight and sunlight assessment produced by BRE, I am satisfied that each of the 3 appeal site-facing classrooms would individually meet the associated BRE guidelines.
24. If the development was implemented, the BRE assessment demonstrates that in terms of the vertical sky component calculations, the nursery windows facing the appeal site would be marginally below the BRE guidelines. Nevertheless, classrooms 1 and 3 have additional windows in other elevations of the building, and the evidence indicates that a negligible reduction in daylight to these windows would occur.
25. Furthermore, it is understood that the vertical sky component calculations were undertaken without regard to the presence of trees and vegetation on the appeal site. However, I observed that much of the site was heavily overgrown, including those areas closest to the nursery building. The implementation of the proposed development would result in the clearance of much of this vegetation. Moreover, while the side of house 3 would oppose the 3 windows in the side of the nursery, it would be set back from the shared boundary. For these reasons, and even if classroom 2 were to be closed off from classrooms 1 and 3, I have no reason to doubt that users of all of these classrooms would retain adequate levels of daylight if the proposals were to be implemented.
26. The orientation of those nursery windows that face the appeal site, is greater than 90 degrees from due south. As such, these windows are in shade for much of the day. Therefore, even if there were to be a small reduction in the amount of time towards the latter part of the day that these windows would be in direct sunlight, I cannot conclude that this small reduction in sunlight would be harmful to the users of these classrooms.
27. For the reasons given above, the proposed development would not harm the conditions of the users of the neighbouring day nursery, with particular regard to sunlight and daylight. As such, and even if a small loss of sunlight and daylight would not be completely avoided, the development would comply with

the aim of policy CS12 of the Core Strategy - as set out within its title, which is to secure quality of site design. It would also comply with those parts of paragraph 135 of the Framework, which state that developments should create places with a high standard of amenity for existing users.

28. In respect of this main issue, I have found no direct conflict with policy CS11 of the Core Strategy, which primarily relates to matters related to the character and appearance of the area and to crime.

Other considerations

29. Albeit in a small way, 3 new dwellings would contribute to the Government's objective of significantly boosting the supply of homes and to reducing the Council's housing land supply shortfall. However, given the limited scale of the scheme, only moderate weight may be attributed to such benefits.
30. Even if I could conclude that the financial contributions set out within the UU would mitigate any harm that would be caused to the Chilterns Beechwoods SAC, this would be a neutral consideration.
31. That the proposed development would not cause harm to the character and appearance of the area, or to the conditions of the users of the nursery, are also neutral considerations.
32. The creation of homes in a location with good access to a range of services and facilities would contribute to the local economy and help to support a vibrant and healthy community. However, given the modest scale of the scheme, the weight that can be attributed to these benefits is limited.

Green Belt balance

33. Albeit the modest scale of the scheme would mean that no more than limited harm would be caused to the Green Belt, as per paragraph 153 of the Framework, substantial weight is accorded to that harm.
34. The other considerations in this appeal do not clearly outweigh the harm by reason of inappropriateness. Consequently, the very special circumstances necessary to justify the development do not exist.
35. Consequently, the proposed development would conflict with policy CS5 of the Core Strategy. It would also conflict with chapter 15 of the Framework which seeks to protect the Green Belt.

Other matters

36. The Council has indicated that it has a 1.69-year housing land supply. In such circumstances, paragraph 11. d) of the Framework sets out that permission should be granted for proposals that constitute sustainable development unless certain circumstances apply. One of these circumstances at 11. d) i. is where 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 of the Framework confirms that the policies referred to within 11. d) i. include land designated as Green Belt. Given that I have found that the proposal would constitute inappropriate development in the Green Belt, this provides a clear reason for refusing the development proposed, and therefore paragraph 11. d) ii. is not engaged.

Conclusion

37. Overall, and for the reasons given above, the proposed development conflicts with the development plan when taken as a whole. There are no material considerations, either individually or in combination that outweigh the identified harm and associated development plan conflict. As this indicates that permission should be refused, there would be no pathways to adverse effects on the integrity of the SAC, whether or not this could ultimately be mitigated through the submitted UU.

38. I therefore conclude that this appeal should be dismissed.

V Simpson

INSPECTOR