



Appeal Decision

Site visit made on 11 June 2024

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/J1915/W/23/3328566

Land east of Upper Green Road, Tewin, Welwyn, Hertfordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mrs Cheryl Cook against the decision of East Hertfordshire District Council.
 - The application Ref is 3/22/1555/OUT.
 - The development proposed is described as erection of 4no three bedroom detached bungalows together with creating two new vehicular accesses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for outline planning permission with approval sought at this stage for access only, with layout, appearance, landscaping and scale reserved for future approval. Whilst the submitted proposed block plan shows how the site might be developed, I have treated details other than access as indicative and not formally as part of the scheme.
3. My attention has been drawn to an appeal decision¹ relating to the site, which was dismissed. The primary difference between the proposal and the previous scheme is the description of development, with the previous proposal for 3no affordable houses and 1no market house and new vehicular access.
4. Since the submission of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Main Issues

5. The main issues are:
 - i) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - ii) the effect of the proposal on the openness of the Green Belt;

¹ APP/J1915/W/19/3226976

- iii) the effect on the character and appearance of the area; and
- iv) if the proposal would be inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

Inappropriate Development

6. The appeal site is a relatively flat undeveloped parcel of land on the east side of Upper Green Road which lies within the designated Green Belt. The site lies immediately adjacent to terraced properties and a small cluster of dwellings lie to the north of the appeal site, separated by a wedge of undeveloped land either side of the public footpath. Opposite the appeal site are dwellings set back from the highway. The appeal site frontage is bound by mature vegetation which contributes to the verdant appearance of the street scene in the locality.
7. The Council's development strategy, as set out within Policy DPS2 of the East Herts District Plan (EHDP), sets out a hierarchy of locations where new development will be focussed, including limited development in the villages of the district.
8. Tewin is a Group 2 Village, as defined by EHDP Policy VILL2. This policy supports limited infill development and small-scale development identified in an adopted Neighbourhood Plan. It is understood that there is no Neighbourhood Plan which encompasses the appeal site.
9. The Framework sets out that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; and the essential characteristics of Green Belts are their openness and their permanence. The Framework goes on to state that inappropriate development is harmful to the Green Belt. The construction of new buildings in the Green Belt should be regarded as inappropriate, and thus should be approved only if very special circumstances exist, unless they come within one of the categories in the closed list of exceptions as set out in paragraph 154 of the Framework.
10. The appellant submits that the appeal site forms part of the village and suggests that it represents an infill plot, which in their view establishes that the proposal would accord with the development plan and Framework.
11. The EHDP does not define infill, nor is there a definition in the Framework. Whilst my attention has been drawn to other Council's definition of infill, whether the proposal would represent infill is a question of planning judgement based on an assessment of the site and its surroundings.
12. Although the site is well related to the existing settlement boundary, I am not convinced that the proposal constitutes infill development. The appeal site would be separated from the cluster of dwellings to the north by an undeveloped area of land. I understand this is to allow access to the remainder of the land, that does not form part of the appeal site, and a public footpath. Whilst I do not disagree that infill generally refers to development between existing development, to my mind despite the site having built form either side the proposal would not result in the completion of a gap between an otherwise continuous and contiguous frontage.

13. I concur with the appellant that infill is not necessarily limited to a single dwelling. However, irrespective of the detailed design, scale and form of development, given the width and extent of the appeal site it appears relatively substantial, and by no means limited.
14. I recognise that there is a disagreement over whether or not the appeal site lies within the village. This is a matter of judgement having regard to the location of the application site and its relationship to other existing development adjoining and adjacent to it. Even if I were to accept the appellants assertion that the appeal site is within the village, for the reasons outlined above it does not constitute infill development.
15. As the appeal site is not identified for development within an adopted Neighbourhood Plan, nor can it be regarded as infill, the proposal is not, supported by Policy VILL2 of the EHDP. The proposed development would also be contrary to EHDP Policy GBR1 which states that planning applications within the Green Belt will be considered in line with the provisions of the Framework.
16. In support of their view that the appeal site should have been considered to be part of the village, and accepted as an infill development, the appellant has drawn my attention to a number of proposals and appeal decisions including sites at Spellbrook² and Little Hallingbury³. While the full details of the other cases are not before me, I recognise that there may be some similarities. However, the site locations differ, I therefore cannot draw any direct comparisons to the appeal scheme before me. In respect of the site at Bricket Wood⁴ from the evidence before me this related to a different description of development. As a proposal for nine supported housing units used by people with learning disabilities, including a staff facility, I do not consider the proposal to be comparable to that before me. Similarly, it is understood that the proposal at Orchard Road⁵ related to a smaller quantum of development which limits the equivalence of the case to the current proposal.
17. In respect of the proposal at the junction of Tewin Hill⁶, north of the appeal site, the Inspector did not conclude whether the appeal site was within the village as it had been established that the proposal would be inappropriate development for the purposes of the Framework and development plan policy.
18. The appellant refers to the appeal site forming part of a larger site known as Site 8 which was considered by the Council in 2005 for the purpose of the Local Plan Inquiry. From the evidence before me the site was omitted due to sufficient housing coming forward. This previous assessment of the site therefore carries no more than limited weight in the determination of the appeal before me.
19. For the reasons stated above, I conclude that the proposal would not represent limited infilling in a village. It would therefore comprise inappropriate development in the Green Belt that would, by definition, be harmful to the Green Belt. It would fail to meet the exceptions set out in paragraph 154 of the Framework. There would also be conflict with Policy GBR1 of the EHDP which,

² Planning ref.no. 3/18/0959/FUL

³ APP/C1570/W19/3241822

⁴ APP/B1930/W/20/3249093

⁵ Site between 28-40 Orchard Road planning ref. no. 3/24/0018/OUT

⁶ APP/J1915/W/19/3226976

amongst other things, requires that planning applications within the Green Belt are considered in line with the provisions of the Framework.

Openness

20. Openness is an essential characteristic of the Green Belt. There are spatial and visual aspects to the assessment of the openness of the Green Belt. The appeal site forms part of a larger parcel of land which is enclosed by tall, mature vegetation.
21. The outline proposal does set the quantum of development proposed for the site. The appellant has indicated 4no single storey properties. Irrespective of the height of the proposed dwellings, and the presence of vegetation, the bulk and mass of the dwellings would erode the openness of the Green Belt in both visual and spatial terms.
22. I acknowledge the case made by the appellant, that the site is not wholly open as it is related to existing residential development to each side and the presence of substantial vegetation, including trees and a substantial hedgerow fronting the road. However, even though I am only considering the access as part of this appeal, it is apparent from the indicative drawings submitted that each of the dwellings would likely occupy a notable footprint and be of fairly considerable width. Therefore, the openness of the appeal site would be curtailed by the proposal such that I find that the openness of the Green Belt would be reduced by a significant degree.
23. Accordingly, for the reasons stated the development of the site would significantly harm openness.

Character and appearance

24. The terraced properties to the south of the appeal site do not have direct vehicular access from Upper Green Road. However, vehicular accesses along Upper Green Road are commonplace. With vegetation present to the frontages of many dwellings Upper Green Road has a verdant appearance.
25. Landscaping is reserved for subsequent approval. Some vegetation would be required to be removed, and engineering works to the raised roadside verge, to facilitate vehicular access to the site would result in some urbanisation of the land. However, I am satisfied that the insertion of two vehicular access points would not appear unduly conspicuous within the street scene.
26. For the reasons stated, I conclude that the proposed access drives would not be harmful to the character and appearance of the streetscene. Accordingly, the proposal would comply with policies DES2 and DES4 of the EHDP. Collectively, these policies seek to respect or improve upon the character of the site and surrounding area, including, amongst other things in terms of landscaping.

Other Considerations

27. The Framework advances that substantial weight be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

28. The appellants have set out a series of benefits which are argued in support of the case for approval, and I have considered and taken them all into account. In particular, the development would result in additional dwellings which would make a positive contribution to local housing supply, including adding to the variety of house types. The Framework is supportive of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirements of an area and are often built out relatively quickly.
29. The appellant submits that there is a shortfall of bungalows both nationally and in East Hertfordshire. I have no evidence before me to contradict this assertion. The proposal is further advanced as being designed for the elderly and impaired for local people to purchase. However, I have not been presented with a robust mechanism that would secure it as such and therefore this is a point that carries no more than limited weight.
30. The Framework promotes sustainable development in rural areas, including by requiring housing to be located where it will enhance or maintain the vitality of rural communities. It also acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
31. It is not disputed that the appeal site is well related to the settlement which provides for a variety of services, including a village shop with post office, public houses, café, bowls club and village hall and that future occupiers could assist in supporting these facilities. It is also noted that Tewin has public transport links, albeit infrequent. I note the intended environmental credentials of the proposed development in terms of the inclusion of energy efficiency measures for the dwellings to be constructed to Passivhaus standards and be as near to zero carbon as possible. However, these factors carry limited weight in favour of the development.
32. Views of the appeal site may be limited due to the presence of mature landscaping to its boundaries. Landscaping is reserved for subsequent approval and whilst the securement of biodiversity net gain is supported by the Framework this would not overcome the harms identified.
33. Limited information has been supplied regarding the site's former use. Having regard to the Framework's definition of previously developed land, I have little evidence to substantiate that the appeal site comprises such.
34. The appellant asserts that the site has become neglected due to vandalism. I have no evidence before me to contradict this assertion. However, I am not satisfied that the proposal is the only means of securing the land from anti-social behaviour and its long-term maintenance. This is therefore a neutral factor in the determination of the appeal.
35. There is no robust evidence before me regarding the assertion that there are no other suitable sites in the defined village boundary or abutting it that could provide for any form of residential development. I therefore attribute this little weight.
36. I acknowledge that the proposal would make a direct and indirect contribution to the local economy through an increase in spending power, and through increased employment opportunities and the purchase of materials during construction. These are matters to which I attach moderate weight.

37. I note the absence of objections from consultees on highway safety grounds and based on the evidence before me I have no reason to form a different view in this regard. I have no reason to doubt that the dwellings would satisfy the sustainable design and construction requirements of the development plan policies at the reserved matters stage.
38. I have had regard to the concerns of interested parties including, but not limited to, pressure on services, highway concerns, precedent for future development, effect on wildlife, loss of view and privacy. The Council did not conclude that these concerns would amount to reasons to justify withholding planning permission. I have been provided with no substantive evidence which would prompt me to disagree with the Council. I am, therefore, satisfied that these matters could be appropriately considered and controlled at reserved matters stage and/or through the imposition of planning conditions.
39. Support for the proposal from residents is noted, however, this does not overcome the harms I have identified.
40. I note the evolution of the proposal from a previously refused scheme. However, I have considered the appeal proposal on its own merits based on the evidence before me. Whilst the appellant has raised concerns regarding the Council's processing of the application, I can only deal with the planning merits of the case.
41. Taking all these considerations into account, I conclude that cumulatively the benefits and arguments in favour of approval merit moderate weight in favour of the appeal proposal.

Planning Balance and Conclusion

42. The proposal would be inappropriate development in the Green Belt which is harmful by definition. In addition, I have found that the development would lead to a loss to the openness of the Green Belt, which would be harmful. In these respects, the proposed development would not accord with the development plan policies.
43. I have examined all the benefits and arguments in favour of the appeal proposal above, and cumulatively these other considerations should merit moderate weight in favour of approval. For the reasons I have explained, the harm to the Green Belt should afford substantial weight. Therefore, the substantial weight to be given to the Green Belt harm is not clearly outweighed by the other considerations sufficient to demonstrate very special circumstances.
44. The Council is unable to demonstrate a five-year supply of deliverable housing sites. In such circumstances paragraph 11 d) of the Framework indicates, in summary, that where the policies which are most important for determining the application are out-of-date, permission should be granted, unless the application of policies in the Framework to protect areas or assets of particular importance provide a clear reason for refusing the proposal. Footnote 7 identifies the Green Belt as such a protected area. For the reasons I have explained above, the harm to the Green Belt should form a clear reason for refusing the development proposed.
45. The development is contrary to the Framework policy approach for the protection of the Green Belt. I have considered all other matters raised,

including the policies of the development plan, but none clearly outweigh the conclusions I have reached that the harm to the Green Belt is not outweighed by other planning considerations.

46. For the reasons set out above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR