



Appeal Decision

Site visit made on 14 May 2024

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2024

Appeal Ref: APP/N1920/W/23/3328119

South Lodge, Blackhorse Lane, South Mimms, Hertfordshire EN6 3NB

- 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 Gay Lewis against the decision of Hertsmere Borough Council.
 - The application Ref is 23/0013/FUL.
 - The development is the proposed demolition of existing stable and erection of new single family dwelling with alterations to existing boundary line.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development includes reference to a change of boundary line. This however is not an act of development and I have considered the appeal on the basis of the red edged site boundary on the plans provided.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.

Main Issues

4. The main issues are:
 - a) whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - b) the effect of the proposal on the openness of the Green Belt;
 - c) the effect of the proposed development on the character and appearance of the area including trees and locally listed heritage assets; and
 - d) 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 required to justify the proposal.

Reasons

Whether inappropriate development

5. The appeal site is located within the Green Belt. Policy CS13 of the Hertsmere Core Strategy Development Plan Document 2013 (HCS) is consistent with the Framework in stating that inappropriate development in the Green Belt will not be approved except in very special circumstances. The policy explains that limited infilling within the village envelope of South Mimms will be considered appropriate, provided that it is sympathetic to its surroundings, retains and protects features essential to the character and appearance of the village and complies with other relevant policies in the HCS. The Framework contains a similar provision within criterion (e) of paragraph 154. This paragraph sets out the exceptions to the general principle that new buildings in the Green Belt are inappropriate.
6. It is the appellant's contention that the proposal constitutes limited infilling within a village. HCS Policy CS13 states that village envelopes for settlements, including South Mimms will be identified through the Hertsmere Site Allocations and Development Management Policies Development Plan Document 2016 (HDPD). However, the Council's written evidence does not set out whether the site lies within the village envelope. I have therefore made a judgement based on the facts and site-specific circumstances.
7. The appellant cites the case of *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610* in support of their argument that the site lies within a village. That judgment supports the view that a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without shops and services, or public transport within easy reach. Nevertheless, it makes clear that whether, in a particular case, a group of dwellings constitutes a settlement, or a "village", for the purposes of planning policy will be a matter of fact and planning judgment for the decision maker. As such, it is not determinative to my decision.
8. Although the cluster of dwellings near South Lodge are affiliated with the nearby village of South Mimms, they are clearly not within it as they are separated by a long and narrow access track. By the same token, when considered cumulatively, they are of an insufficient scale or degree of separation to be considered as a small hamlet in their own right.
9. Even if I had taken the view that the site lies within the village, it would need to constitute an infill plot. The term 'infilling' is not defined in the Framework, but paragraph 4.79 of the HDPD states that infilling is development within a gap along a clearly identifiable built-up frontage or within a group of buildings. This definition is provided for the purposes of interpreting Policy SADM23, but it is a useful starting point. The cluster of buildings here form neither an identifiable frontage, nor would the proposed dwelling be within it. In effect, there is nothing to infill as the site is adjacent to open fields.
10. The appellant does not rely upon any of the other exceptions within paragraph 154. Nonetheless, I have considered these as part of my assessment and am satisfied that they do not apply. The proposal would not qualify under criterion (d) as a replacement building because this requires the existing and proposed buildings to be in the same use. In order to qualify as the redevelopment of previously developed land within Framework paragraph 154 (g) the proposal

would need to not have a greater impact on the openness of the Green Belt than the existing development. For the reasons I shall set out below, that requirement would not be met.

11. I therefore conclude that the proposal would be inappropriate development and would be, by definition, harmful to the Green Belt. The proposal thus conflicts with Policy CS13 of the HCS. Policy SADM26 of the HDPD which is also cited on the decision notice does not go to the heart of whether the proposal is inappropriate development and will be more relevant to my considerations on the impact on openness.
12. I have noted the Council's reference to various other policies including Policies CS1 and CS2 of the HCS. However, these are policies for the supply and location of new dwellings and make no reference to the Green Belt. Equally, Policies SADM3, SADM22, SADM24 and SADM25 of the HDPD are of limited relevance as they either contain no Green Belt references or relate to circumstances that do not apply in this case."

Effect on openness

13. The Framework explains that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Openness has both visual and spatial dimensions.
14. In this case, the proposed dwelling would be of a comparable size, shape and scale to the existing stable block, and so would not harm openness in spatial terms. However, the proposed dwelling would require the construction of a new driveway and hardstanding and it would be accompanied by parked cars and domestic paraphernalia.
15. Compared to the low-key use of the site as a stables and grazing, the proposal would have a greater visual impact. For this reason, it would contribute to urban sprawl and fail to safeguard the countryside from encroachment. Consequently, the proposal would have a greater impact on the openness of the Green Belt than the existing development. This harm would be limited and localised, but it would add to the harm arising from inappropriateness.
16. Policy SADM26 of the HDPD makes clear that a like for like replacement in terms of building is not necessarily acceptable. The nature and intensity of the new use, its effect on amenity, landscape and the purpose of the Green Belt in that locality will be important considerations. By introducing a more intensive use of the site and changing the character of that use to a more urban one, the proposal would conflict with these provisions.

Character and appearance

17. The site is located towards the south of North Mymms Woods with a further ribbon of trees following the narrow Blackhorse Lane towards the village. Beyond this, the area is largely given over to open fields. It has a sylvan backdrop consisting of a wide variety of species of tree with those present on the site being in varying condition. The appellant has provided an Arboricultural Impact Assessment of those trees on the site and the majority are recorded as being in fair condition (category B1).

18. The proposed development would form a new access drive from Blackhorse Lane resulting in the removal of a conifer hedge and a Scots Pine. Two further dead trees would be removed for the access drive. The dwelling itself would not, directly, require the removal of any trees but would be very close to numerous specimens requiring pruning at a minimum.
19. The introduction of the new dwelling with associated driveway would replace a predominantly verdant setting with one that is dominated by the new dwelling and hard surfacing. The dwelling and driveway would be within the root protection areas of numerous trees. Whilst I recognise that a no-dig construction method is proposed, I am not persuaded that this would be practicable in all areas, particularly in relation to the footings and foundations of the proposed dwelling and due to the large extent of hardstanding. This is likely to result in the potential loss of some trees in the longer term, along with an increased desire on the part of any future occupants to prune or lop these trees in the interests of natural light and household maintenance. This could lead to an erosion of trees on this fringe area of the designated ancient woodland.
20. The introduction of the new dwelling and the long driveway, combined with its visibility and prominence along Blackhorse Lane would be harmful to the verdant character and appearance of the area and proximity of development to these trees leads to additional concerns about their long term retention and viability. As such, the development would be harmful to the character and appearance of the area and it conflicts with policy SADM11, SADM12, SADM26 and SADM30 of the HDPD and design expectations of the Shenley Neighbourhood Plan. These policies require new development to make a positive contribution to the built and natural environment and recognise and complement the particular local character of the area.
21. The proposed dwelling and access drive would be set adjacent to the locally listed South Lodge and four adjacent brick piers that mark the entrance to North Mymms Woods. These structures form an attractive gateway to the woods beyond, conveying the impression of an entrance to a country estate. The appeal site, with its pleasing rural character, contributes to the setting of these non-designated heritage assets. The proposed development would harm this setting by altering the rural context to introduce additional built form.
22. Paragraph 209 of the Framework requires that the effect on the significance of a non-designated heritage asset should be taken into account. In weighing applications that directly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Whilst the provision of a new dwelling may represent a benefit, this benefit is very modest and it does not outweigh the harm to the significance of the locally listed buildings as heritage assets.
23. I therefore conclude that the proposed development would fail to comply with HDPD policies SADM26, SADM29 and SADM30. These policies seek to maintain or improve the appearance and character of locally listed buildings and their settings.
24. Reference has been made by the Council to policies CS1, CS2, CS13 and CS14 of the HCS and SADM3, SADM10, SADM24 and SADM25 of the HDPD however these are either strategic policies with no direct relevance to this proposal or are not applicable in this instance.

Green Belt Balance and Conclusion

25. Paragraphs 152 and 153 of the Framework set out the general presumption against inappropriate development within the Green Belt. They explain that such development should not be approved except in very special circumstances. Very special circumstances to justify inappropriate development 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.
26. I have concluded that the appeal scheme would be inappropriate development that would, by definition, harm the Green Belt. Paragraph 153 of the Framework requires substantial weight to be given to any harm to the Green Belt.
27. The scheme would also cause material harm to the character and appearance of the area and the significance of non-designated heritage assets. This adds to the overall harm.
28. The appellant has not provided evidence of any other considerations that may amount to very special circumstances to outweigh the harm I have identified. I have taken account of the social and economic benefits of delivering a new home, but the benefits of a single dwelling would be very modest, and they are not sufficient to clearly outweigh the Green Belt harm and other harm. Therefore, the very special circumstances necessary to justify the development do not exist.
29. The proposal conflicts with the development plan read as a whole and material considerations do not indicate a decision otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

Nick Bowden

INSPECTOR